

GOLDEN GATE HIGHWAY DISTRICT NO. 3

POLICY CODE



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TITLE 1 INTRODUCTION

CHAPTER 1 OFFICIAL DISTRICT POLICY CODE; NOT A CONTRACT OF EMPLOYMENT

1.1.1 Introduction: This Policy Code of the Golden Gate Highway District No. 3 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 Golden Gate Highway District No. 3 regarding the same and is not intended to and does not create a contract of employment in any manner. Employment by Golden Gate Highway District No. 3 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. Golden Gate Highway District No. 3 reserves the right to revise or to terminate its policies and benefit plans from time to time and upon the exercise of the sole discretion of the Board of Commissioners.

1.1.2 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.

1.1.3 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 Golden Gate Highway District No. 3. This Policy Code shall be known and cited as the “*Golden Gate HD Policy Code*” and it is hereby published by authority of the Board of Commissioners of the Golden Gate Highway District No. 3 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:** The improvement of highways and highway systems is a declared, established and permanent policy of the state of Idaho, and the duty is imposed upon the state its system of state highways and upon other public highway jurisdictions in the state of Idaho including county, city and highway districts in respect to their systems of highways to improve and maintain the highways within their respective jurisdiction within the limits of the funds available. Therefore 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 Golden Gate Highway District No. 3 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 ten (10) 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 ten (10) 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 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 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 Have an interest in any contract made by them in their official capacity, or by any body or board of which he is 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 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 relative submits the low bid; and (2) Neither the public servant nor his 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 relative and of his or his relative's intention to bid on the contract; and (4) Neither the public servant nor his relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business; and

2.3.1.5 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 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

[Amended Resolution No. 2015-04 passed June 4, 2015]

- 2.4.1 **Ethics:** 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 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 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 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, 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 first Thursday of each month at the hour of 11:30 a.m. in the commissioners Meeting Room at the Administrative Office of the Highway District located at 500 Golden Gate Avenue, Wilder, Idaho 83676. *[Amended by Resolution No. 2012-05 passed April 5, 2012]*
- 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 include 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** Reading and 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”*. [Amended by Res. 2013-01 passed Jan. 10, 2012]

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]:

3.1.3.10.1 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

3.1.3.10.2 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

3.1.3.10.3 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

3.1.3.10.4 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

- 3.1.3.10.5** Report on the maintenance and upkeep of equipment, buildings and real property of the District; and
- 3.1.3.10.6** Recommendations to the Board of any needed equipment, specifications, purchases and sales; and
- 3.1.3.10.7** Report on supplies, equipment and facilities needs of the District; and
- 3.1.3.10.8** 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
- 3.1.3.10.9** 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
- 3.1.3.10.10** 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
- 3.1.3.10.11** Report on employee and staffing matters as are relevant; and
- 3.1.3.10.12** 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
- 3.1.3.10.13** 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
- 3.1.3.10.14** 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
- 3.1.3.10.15** Report of any investigations and advise the Board of Commissioners regarding tort claims filed against the District; and
- 3.1.3.10.16** 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
 Unscheduled matters may be heard as the last items under new business, but decisions on such matters may be tabled until the next regular monthly meeting unless a vote is first taken by the board that the matter be taken up then, when it appears to be in the best interest of the District to do so.
 - 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

[Amended by Resolution 2015-04 passed on June 4, 2015]

- 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 500 Golden Gate Avenue, Wilder, Idaho 83676 and the Wilder City Hall located at 219 3rd Street, Wilder, Idaho 83676.
- 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. 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.

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: 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

[Adopted by Resolution No. 2013-6 passed April 4, 2013]

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.

3.2.5.1.2 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 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

[Amended by Resolution 2015-04, Passed on June 4, 2015]

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

<p>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.</p>

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 President 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

<p>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.</p>
--

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 Golden Gate Highway District No. 3. 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/President, 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 proceedings¹.

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.

¹ See *Evan v. Board of Com'rs of Cassia County*, 50 P.3d 443

- 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
- 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 administrative office bulletin board for a period of twenty eight [28] days and a copy provided to all administrative and appointed staff and to the Commissioners by the Secretary.

**TITLE 5
RECORDS
CHAPTER 1
OPERATIONAL POLICY**

5.1.1 Findings

- 5.1.1.1** The Golden Gate Highway District No. 3 has and will continue to generate and receive various Highway District records; and
- 5.1.1.2** 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
- 5.1.1.3** The Commissioners find that Highway District records may include records in different formats and some records will be subject to production in response to public records requests and other records will not be; and
- 5.1.1.4** There is a need to provide guidelines and 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.

5.1.2 Operational Guidelines for Highway District Records: The following are recommended operational guidelines for Highway District commissioners and staff concerning Highway District records:

- 5.1.2.1** Highway District commissioners and staff are encouraged, when communicating on matters of Highway District business, to not include and/or mix the same with personal or unrelated business communications; and
- 5.1.2.2** Highway District commissioners and staff are encouraged to maintain files and work folders for the storage of Highway District records as is appropriate to subject mater and separate from any other documents and/or communications unrelated to Highway District business; and
- 5.1.2.3** The Board of Commissioners' meeting agenda should include, as is reasonably necessary to:
 - 5.1.2.3.1** Classify Highway District records as required under this Title; and
 - 5.1.2.3.2** Approve the deletion and/or destruction of Highway District records.
- 5.1.2.4** At such time as the Secretary notifies the 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* directive to Highway District commissioners, staff and agents until thereafter authorized by the Commissioners.

CHAPTER 2 RECORDS

5.2.1 “**Highway District Records**” include any writings, audio records and electronic records containing information relating to the conduct or administration of the Highway District’s business prepared, owned, used or retained by the Highway District but do not include “Non-Highway District Records” herein Section 5.2.2 defined; and

5.2.2 “**Non-Highway District Records**” include:

5.2.2.1 Identical copies of records maintained by the Highway District Secretary; and

5.2.2.2 Drafts of any communication or document of any kind not sent or communicated to any person other than the originator; and

5.2.2.3 Communications, materials, and/or documents of any kind received from outside originators (sources other than Highway District agents) which require no Highway District action and of which an identical copy is retained by the Highway District Secretary; and

5.2.2.4 Communications, materials, and or documents which are not related to the conduct or administration of the Highway District’s business; and

5.2.2.5 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 Highway District’s business.

5.2.2.6 Draft documents originated by Highway District agents which are the subject of official approval either by the Board of Commissioners or by a Highway District official [includes the Director, Engineer, Secretary, Treasurer and/or Attorney].

5.2.2.6.1 As a guideline, it its recommended that draft documents submitted for approval contains 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 Board of Commissioners or Highway District Official and is therefore not an official record relating to the conduct or administration of the Highway District’s business and will not be retained. Approved documents do not contain this Caution header.

5.2.2.7 Audio Records and electronic records recorded by a Commissioner or Highway District staff for personal reasons using their own equipment.

CHAPTER 3 RECORDS CLASSIFICATION

[Amended by Resolution 2015-04, Passed on June 4, 2015]

- 5.3.1 Permanent and Indefinitely Kept 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:
- 5.3.1.1** 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.
 - 5.3.1.2** 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.
 - 5.3.1.3** 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.
 - 5.3.1.4** A **Permit Book**, containing all permits licenses issued by the Highway District and indexed and or categorized at to type of permit.
 - 5.3.1.5** An **Ordinance Book**, containing all ordinances, stating the date enacted.
 - 5.3.1.6** A **Resolution Book**, containing all resolutions, stating the date adopted.
- 5.3.2 Permanent Records** shall consist of, but not be limited to, the following: 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.
- 5.3.3 Semi-Permanent Records** shall consist of, but not be limited to, the following: claims, contracts, canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, bonds and coupons, registration and other election records, financial records, and other documents or records as may be deemed of semi-permanent nature by the Board of Commissioners.
- 5.3.4 Temporary Records** shall consist of, but not be limited to, the following correspondence not related to Permanently and Indefinitely Kept and/or Permanent Records and/or Semi-Permanent Records, cash receipts subject to audit and other records as may be deemed temporary by the Board of Commissioners.

5.3.5 Audio Recordings shall consist of, but not be limited to audio recordings of general and special business meetings of the Board of Commissioners and audio tapes of public hearings, voice mail and any other audio record.

5.3.5.1 Audio recordings of general and special business meetings shall be retained until the minutes of the subject meeting have been read and approved by the Board of Commissioners; and

5.3.5.2 Audio recordings of public hearings dealing with legislative matters shall be retained until destruction is ordered by the Board of Commissioners; and

5.3.5.3 Audio recordings of quasi-judicial matters are Unclassified Records and shall be retained until the expiration of any appellant time without appeal or petition for judicial review or declaratory judgment, as the case may be; and

5.3.5.4 Audio recordings on any matter filed in court shall be retained until a final non-appealable judgment or dismissal of the Court of competent jurisdiction has been received by the District.

5.3.5.5 Audio recordings of telephone conversations or voice mail shall be retained subject to the capacity of the telephone system of the District and in accordance with the following guidelines and are Unclassified Records:

5.3.5.5.1 Ordinary voice mail communications of notification to return a call or set an appointment or other similar voice mail which does not contain any substantive information to the conduct of Highway District business may be destroyed at the discretion of the Commissioner or Highway District Staff unless a Do Not Destroy order is in effect.

5.3.5.5.2 All other Audio recordings are Unclassified Records.

5.3.6 Unclassified Records shall consist of all other records not otherwise classified by this Policy or by the Board of Commissioners.

5.3.7 Exempt from Disclosure Highway District Records shall consist of Highway District Records which qualify as exempt from public records request disclosure under the provisions of I. C. §§ 74-104 to 74-107.

CHAPTER 4 RECORDS RETENTION

5.4.1 Highway District Records Retention shall be as follows:

5.4.1.1 Permanently and Indefinitely Kept Records shall be retained permanently and indefinitely.

- 5.4.1.2 Permanent Records shall be retained for not less than ten (10) years.
- 5.4.1.3 Semi-Permanent Records shall be kept for not less than five (5) years after date of issuance or completion of the matter contained within the record.
- 5.4.1.4 Temporary Records shall be retained for not less than two (2) years.
- 5.4.1.5 Unclassified Records are retained until their destruction is authorized by the Board of Commissioners.
- 5.4.1.6 Records may be destroyed after their classification retention period by resolution of the Board of Commissioners after regular audit and upon the advice of the Highway District Secretary. A resolution ordering destruction of Highway District Records must list records to be destroyed. Authorized destruction of Highway District Records shall be under the direction and supervision of the Secretary of the Highway District.
 - 5.4.1.6.1 The form of the request for records destruction will be substantially in the following form: **Records Destruction Request** [Forms Book]
 - 5.4.1.6.2 The form of the resolution ordering destruction will be substantially in the following form: **Resolution Authorizing Records Destruction** [Forms Book]
- 5.4.1.7 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.
- 5.4.1.8 Non-Highway District Records are not governed by this Policy for retention and may be destroyed without authorization by the Highway District Commissioners.

CHAPTER 5 ELECTRONIC RECORDS

- 5.5.1 Records of the Highway District originated and or received in electronic format:
 - 5.5.1.1 Are classified and retained for the same length of time as paper documents would be retained having the same content; and
 - 5.5.1.2 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 as determined by the Secretary.

5.5.2 E-mail Guidelines

5.5.2.1 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.

5.5.3.2 Retention of e-mail originated by Highway District staff is the responsibility of the originator.

5.5.3.3 Retention of e-mail received by Highway District staff, which is originated by persons other than 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.

5.5.4 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.

5.5.4.1 Audio Records of the Highway District originated and/or received are classified and retained in accordance with the provisions of Section 5.3.5 of this Policy.

5.5.4.2 Audio Records of the Highway 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.

5.5.4.3 Retention of Audio Records originated by Highway District staff is the responsibility of the originator until delivered to the Secretary for retention.

5.5.4.4 Retention of audio records received by Highway District Commissioners or staff, which is originated by persons other than 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 audio record and the response until the same are delivered to the Secretary for retention.

CHAPTER 6 PUBLIC RECORDS REQUESTS

- 5.6.1 Purpose:** The Golden Gate Highway District No. 3 is subject to the Idaho Public Records Law which is codified in Chapter 3 of Title 9 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.
- 5.6.2 Designation of Custodian of the Records:** The Highway District Secretary is the official custodian of the Records of this Highway District.
- 5.6.3 Procedure for receipt and process of Public Records requests:** The following Public Records Request form is adopted pursuant to the authority of Idaho Code § 9-338 (4). See **Public Records Request Form** [Forms Book]
- 5.6.4 Procedure:** The following is set forth as a guideline to be followed in the receipt and process of a public record request.
- 5.6.4.1 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 5.6.3**. 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 § 9-338 (4).
- 5.6.4.2 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.
- 5.6.4.3 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.
- 5.6.4.3.1** 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.

5.6.4.3.2 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.

5.6.4.3.3 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.

5.6.4.4 **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.

5.6.4.5 **Step 5** - The Requester shall be notified using the District's Form request [see **Section 5.6.3**] within three (3) working days of receipt of the request by the District unless notice is provided under **Section 5.6.4.3**.

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

5.6.5.1 **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 § 9-342].

5.6.5.2 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.

5.6.5.3 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.

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

5.6.6 Public Records Copying Fee Schedule

5.6.6.1 The Board of Commissioners has exercised its authority to adopt a public records copying fee schedule pursuant to Idaho Code § 9-338 (8).

5.6.6.2 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.

5.6.6.3 The following Public Record Fee Schedule is adopted:

5.6.6.3.1 Certification of Records: \$1.00 per certification

5.6.6.3.2 Copying Costs: \$0.15 per page for all copies in excess of 100 pages

5.6.7 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.

5.6.8 Duplication of computer tape, computer disc, microfilm, or similar or analogous record system: Actual costs incurred by District for duplication.

5.6.9 Exemption from Fee: No fee for labor or copying for public records requests shall be charged a requester in the event the requester demonstrates that the requester's examination and/or copying of public records that:

5.6.9.1 Is likely to contribute significantly to the public's understanding of the operations or activities of the government;

5.6.9.2 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;

5.6.9.3 Would not otherwise occur because the requester has insufficient financial resources to pay such fees.

CHAPTER 7

PERSONNEL RECORDS

[Amended by Resolution 2015-04, passed on June 4, 2015]

- 5.7.1** The Board of Commissioners of Golden Gate Highway District No. 3, Canyon County, Idaho, finds:
- 5.7.1.1** 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
 - 5.7.1.2** 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].
 - 5.7.1.3** 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
 - 5.7.1.4** 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.
 - 5.7.1.5** 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.
 - 5.7.1.6** 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.
 - 5.7.1.7** 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

- 5.7.1.8** 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.
- 5.7.2 Definitions:** For purposes of the Policy, wherever used herein the following terms shall have the following meaning, unless the context indicates to the contrary:
- 5.7.2.1 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.
- 5.7.2.2 Employee:** means and refers to any current and past employee of this Highway District, including members of the Board of Commissioners.
- 5.7.2.3 Highway District:** means and refers to the Golden Gate Highway District No. 3, a Highway District organized and existing under and by virtue of the Laws of the State of Idaho, located in Canyon County, Idaho.
- 5.7.2.4 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.
- 5.7.2.5 Release Authorization:** means and refers to the **Personnel Record Request and Release Authorization Form.**
- 5.7.3 Personnel Records Disclosure Policy:** The Board of Commissioners adopts the following policy for the Disclosure of Personnel Records under the jurisdiction of Golden Gate Highway District No. 3:
- 5.7.3.1 Personnel Records Custody and Maintenance:** The custody and maintenance of Personnel Records are under the direction and control of the Highway District Secretary.
- 5.7.3.2 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:
- 5.7.3.2.1** 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
- 5.7.3.2.2** 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

- 5.7.3.2.3** 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
- 5.7.3.2.4** Disclosure to the Highway District's legal counsel as is reasonable necessary in the defense of claims against the Highway District; and
- 5.7.3.2.5** 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
- 5.7.3.2.6** 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.

5.7.3.3 Process of Personnel Records Disclosure

- 5.7.3.3.1** All requests for Disclosure of Personnel Records are to be made to the Highway District Secretary.
- 5.7.3.3.2** The Secretary determines under this policy provision whether or not the Disclosure can be made.
- 5.7.3.3.3** 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.
- 5.7.3.3.4** 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.
- 5.7.3.3.5** 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.

**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	2017 and every four (4) years thereafter
Sub-district No. 3	2015 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.

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

[Amended by Resolution 2014-05, by the addition of Section 7.3.2.7.4, Approved June 5, 2014]

7.3.1 Election by Board: The Board shall at its first meeting in October of each year nominate and appoint a Secretary for a term of one year, unless a shorter term is designated, and the office of Secretary and Treasurer may be filled by the same person and certified copy of the appointment under the hand of each of the Commissioners, shall be forthwith filed by the Secretary with the Clerk of the Board of County Commissioner Canyon County. The Secretary is to take and file an oath of the faithful performance of the duties as herein provided for, which shall be on file with the official records of the District.

7.3.2 Board Secretary Duties

- 7.3.2.1 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:
 - 7.3.2.1.1 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
 - 7.3.2.1.1 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
 - 7.3.2.1.1 Ordinance book** which shall contain all ordinances indexed by date enacted and in sequential numerical order; and
 - 7.3.2.1.1 Resolution book** which shall contain all resolutions indexed by date enacted and in sequential numerical order.
- 7.3.2.2 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)].

7.3.2.3 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.

7.3.2.4 Report to the Board of Commissioners: The Secretary reports directly to the Board Chairman; receives and advises the Board of all communications to the Board of Commissioners; and exercises such other authority as expressly authorized by the Board.

7.3.2.5 Agenda and Notices: The Secretary prepares the agenda, assures that all notice of Board meetings are posted and published as required by law.

7.3.2.6 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.

7.3.2.7 Receive and Process Highway District Business: The Secretary of the Highway District receives and processes as established by policy or by law:

7.3.2.7.1 Public Records Requests: The Secretary receives and responds to Public Records Requests.

7.3.2.7.2 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 “Golden Gate HD Policy Code” Tort Claim Policy.

7.3.2.7.3 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.

7.3.2.7.4 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,

7.3.2.7.4.1 Reporting to commence March 15, 2015 and reporting follows on December 1st of each year.

7.3.2.7.4.2 Update reporting of any changes in the reported information within 30 days of such change.

- 7.3.2.8 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.
- 7.3.3 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.
- 7.3.4 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 of 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.

CHAPTER 4 BOARD TREASURER

- 7.4.1 Election by Board:** The Board shall at its first meeting in October of each year nominate and elect a Treasurer for a term of one year, unless a shorter term is designated, and the office of Secretary and Treasurer may be filled by the same person, and certified copy of the appointment under the hand of each of the Commissioners, shall be forthwith filed by the Secretary with the Clerk of the Board of County Commissioner Canyon County.
- 7.4.2 Board Treasurer Duties:** The duties of the Board Treasurer are to:
- 7.4.2.1** 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
 - 7.4.2.2** Exercise such other authority as expressly authorized by the Board; and
 - 7.4.2.3** 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
 - 7.4.2.4** 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
 - 7.4.2.5** 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
 - 7.4.2.6** 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

7.4.2.7 Coordinate and provide necessary information to auditor; and

7.4.2.8 Work in coordination with the other officers herein these policies provided for and appointed by the Board; and

7.4.2.9 Prepare the final fiscal year budget resolution and file a certified copy of the same with the appropriate government agencies; and

7.4.2.10 Perform such other duties herein this Policy Code provided for and or otherwise required by law of the Treasurer of this Highway District.

7.4.3 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.

7.4.4 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 a 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.

CHAPTER 5 HIGHWAY DISTRICT ATTORNEY

7.5.1 Appointment by the Board: The Board shall at its first meeting in October of each year nominate and appoint an attorney for the Highway District.

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 at its first meeting in October of each year nominate and appoint a Highway District Engineer.
- 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.

CHAPTER 7 DIRECTOR OF HIGHWAYS

- 7.7.1 Appointment by the Board:** The Board shall at its first meeting in October of each year nominate and appoint the Director of Highways for a term of one year unless a shorter term is designated.
- 7.7.2 Director of Highways Duties:** The duties of the Director of Highways are to:
- 7.7.2.1** Serve as the head of and be responsible for the operation, administration and coordination of the District's operations; and
 - 7.7.2.2** Work in coordination with the other officers herein this policy provided for an appointed by the Board; and
 - 7.7.2.3** Advise the Board Chairman and Secretary of any needed agenda items for upcoming Board of Commissioners' meetings; and
 - 7.7.2.4** 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
 - 7.7.2.5** Review any policy proposals and advises the Board regarding the advisability of the same; and

- 7.7.2.6 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
- 7.7.2.7 Supervise all full-time, part time personnel of the District excluding other appointed officers directly and/or through subordinate supervisors; and
- 7.7.2.8 Be responsible for hiring, promotion, disciplining and termination of employees in accordance with District Policy and report such actions to the board; and
- 7.7.2.9 Assure the proper manning of shifts; and
- 7.7.2.10 Assure the proper training and certification of District personnel; and
- 7.7.2.11 Coordinate with other public agencies involving District Operations; and
- 7.7.2.12 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
- 7.7.2.13 Inform the Board of all reviews and approvals as provided in **Section 7.7.2.12** and on all major development applications advise the Board and follow the Board direction regarding the action or response; and
- 7.7.2.14 Evaluate the effectiveness of the District's provision of transportation services within the District and advise the Board of the evaluations; and
- 7.7.2.15 Maintain records in coordination with the Secretary of all District operations under the supervision of the Director of Highways, and
- 7.7.2.16 Maintain and makes reports as required under law for all District operations under the supervision of the Director of Highways; and
- 7.7.2.17 Oversee the maintenance and upkeep of equipment, buildings and real property of the District; and
- 7.7.2.18 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

- 7.7.2.19** Oversee and make recommendations to the Board of all equipment, specifications, purchases and sales; and
- 7.7.2.20** Keep the Board informed of supplies, equipment and facilities needs of the District; and
- 7.7.2.21** Oversee the purchase of District equipment and supplies and road and bridge construction and materials; and
- 7.7.2.22** Execute the policy and procedures adopted by the Board appertaining to the Director of Highways duties and responsibilities; and
- 7.7.2.23** Communicate to the Board matters which those under the Director of Highways' supervision seek to have placed upon the agenda of the Board; and
- 7.7.2.24** 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
- 7.7.2.25** Report to the Board on the Highway construction and maintenance activity of the preceding month and all expenses related thereto; and
- 7.7.2.26** Inform and recommend to the Board appropriate funding sources such as grants which can support District functions and operations etc; and
- 7.7.2.27** 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
- 7.7.2.28** Supervise and evaluate all employees [not including other appointed officers]; and
- 7.7.2.29** Establish, with approval of the Board, a plan for personnel recruitment, selection and retention; and
- 7.7.2.30** 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
- 7.7.2.31** Oversee the District's maintenance and record keeping of its highways and rights-of-way; and
- 7.7.2.32** 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

- 7.7.2.33** 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
- 7.7.2.34** Cause to be recorded all highways and public rights-of-way within the District's boundaries; and
- 7.7.2.35** Oversee and direct, subject to the direction of the Board of Commissioners, highway improvement project protocol; and
- 7.7.2.36** 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
- 7.7.2.37** Staff 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
- 7.7.2.38** Oversee the acquisition of property except for acquisitions directed by the Commissioners through other appointed officers; and
- 7.7.2.39** 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
- 7.7.2.40** 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
- 7.7.2.41** 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
- 7.7.2.42** 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

- 7.7.2.43** Conduct investigations and advise the Board of Commissioners regarding tort claims filed against the District; and
- 7.7.2.44** 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
- 7.7.2.45** 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 owners payment of the expenses related thereto as provided in Idaho Code § 40-2322; and
- 7.7.2.46** Advise and furnish to the Commissioners any specific conditions of road or personnel problems that may be of interest to them; and
- 7.7.2.47** Furnish periodic reports to the Board showing labor performed or now being done under his 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
- 7.7.2.48** 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
- 7.7.2.49** 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 shall take such action as may be deemed necessary or legal. He 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
- 7.7.2.50** 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
- 7.7.2.51** Periodically visit and inspect personally all roads in the District to see that they are being properly maintained, and gives to the subordinate deputy and foremen specific instructions as to work he deems necessary. Ascertain if they are complying with his requests and shall correlate scheduled work; and
- 7.7.2.52** Ensure that roads are properly prepared before the work of oiling and paving begins. He shall supervise and inspect (through his subordinates) the work of the crews in progress and upon completion of the job; and
- 7.7.2.53** 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

- 7.7.2.54** 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
 - 7.7.2.55** 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
 - 7.7.2.56** The Director of Highways shall make an assessment of the Highway Infrastructure Assets conditions at least once every three [3] years; and
 - 7.7.2.57** Assume responsibility for observance of safety rules by all personnel. Assess and review the work of the District's employees through his subordinate foremen, as appropriate; and
 - 7.7.2.58** Oversee the hiring, promoting, dismissing and disciplining of employees, subject to Board approval; and
 - 7.7.2.59** Oversee and make recommendations to the Board regarding highway construction and maintenance materials and contracts for the purchase of the same.
- 7.7.3 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].

CHAPTER 8 PROBATIONARY TERM EMPLOYEES

- 7.8.1** Probationary Term Employees are appointed by the Board of Commissioners upon recommendation of the Director of Highways to fill non-seasonal positions of the Highway District for a term as herein provided for in Sections 8.4.2.5 and 8.4.2.6 of this Policy Code.
- 7.8.2** The personnel policy provisions of Title 7 are not intended to and do not create a contract of employment in any manner [See Sub-section 1.1.1.1].

TITLE 8 STAFF PERSONNEL

[Amended by Resolution No. 2013-12, Approved October 3, 2013]

CHAPTER 1 CHAIN OF COMMAND

- 8.1.1 Chain of Command:** There is herein this chapter established a chain of command in order to provide for the orderly flow of Housing Authority, information, direction, problem solving and responsibility, both for day to day operations and for incident command. The Board of Commissioners have the statutory power and duty to manage and conduct the business and affairs of this Housing Authority and are therefore the top of the chain of command to whom the Executive Director reports.
- 8.1.2 Daily Operations Command:** The chain of command for daily operations [Daily Operations Command] is in the following order [subject to the authority of the Director of Highways as the commander of all non-appointed staff and Probationary Staff to command day to day highway and bridge operations directly in the event of the absence of the intermediate position or in circumstances where immediate action is reasonably needed]. From time to time some of these positions may not be filled and in such circumstance the chain of command goes to the next highest position:
- 8.1.2.1** Director of Highways; and then
 - 8.1.2.2** Highway Foreman; and then
 - 8.1.2.3** Temporary Foreman as assigned by the Director of Highways; and then
 - 8.1.2.4** District Maintenance Worker.
- 8.1.3** The Secretary provides secretarial and clerical duties for the Director of Highways at the Director's request but reports in the chain of command to the Chairman of the Board of Commissioners.
- 8.1.4** The Attorney of the Housing Authority provides services at the request of the Board of Commissioners and the Executive Director but reports in the chain of command to the Chairman of the Board of Commissioners.

CHAPTER 2 POLICY DISTRIBUTION AND REVIEW

- 8.2.1** The operational and personnel policy provisions of Golden Gate Highway District No. 3 Policy Code are foundational to safe and effective operations. All personnel are to periodically review, be familiar with, and follow these provisions. The personnel policy provisions of Title 8 are not intended to and do not create a contract of employment in any manner [See Sub-section 1.1.1.1].

- 8.2.2** Each employee of this District will be given a copy of this Policy Code upon request and will sign for the receipt thereof.
- 8.2.3** This Policy Code must be returned to the Director of Highways or the Secretary upon permanent termination of the employee's employment with the Highway District. It is also the responsibility of each employee to be sure that their copy of the manual remains current, by signing for, and inserting new Policy and other information as handed out by the Highway District.

CHAPTER 3 NON-APPOINTED POSITIONS

- 8.3.1 Highway Foreman:** Assists 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 and shall perform the following duties:
- 8.3.1.1** Is on call as assigned by the Director of Highways;
 - 8.3.1.2** Performs other related duties as assigned or required;
 - 8.3.1.3** Performs duties even in inclement weather and under adverse conditions if necessary to complete timely performance of the work assigned;
 - 8.3.1.4** 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 done;
 - 8.3.1.5** Oversees and supervises the work of road and bridge crews in accordance with established policies of the Highway District, exercise independent judgment, and make decisions within the scope of the assignment;
 - 8.3.1.6** Maintains a working knowledge of and ability to operate heavy equipment, drive trucks or work where the need exists;
 - 8.3.1.7** Maintains a high degree of skill and knowledge of general highway, road, and bridge building and safety procedures;
 - 8.3.1.9** Assigns work schedules under direction of the Director of Highways, utilizing all Highway District employees to perform in needed capacities;
 - 8.3.1.10** Assists in inspecting highways for chip sealing priorities and works in progress to assure conformance with specified standard procedures;
 - 8.3.1.11** Trains and instruct employees in highway and bridge maintenance and construction and safety;

- 8.3.1.12** Reviews and assesses the work of employees under the Highway Foreman's supervision;
- 8.3.1.13** Inspects trucks and equipment assigned to crews for preventive and needed maintenance;
- 8.3.1.14** Maintains a good driving record and a current Idaho Class A Commercial Drivers' License;
- 8.3.1.15** 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;
- 8.3.1.16** Maintains the ability to plan and supervise the work of District Maintenance Workers, prepare and keep records, understand and transmit oral and written instructions;
- 8.3.1.17** Handles in a skillful manner public relations matters assigned by the Director of Highways or as is required to perform the duties of the position;
- 8.3.1.18** Maintains a comprehensive and broad knowledge of bridge building, forming and cement work;
- 8.3.1.19** Maintains the ability to develop and plan bridge construction and maintenance programs; to plan and supervise the work of District Maintenance Workers; to keep construction and material records; to solve problems;
- 8.3.1.20** In the absence of the Director of Highways is responsible for the operation and coordination of the District's operations;
- 8.3.1.21** Receives and processes Approach Permits;
- 8.3.1.22** Works in coordination with the other officers herein this policy;
- 8.3.1.23** Assures the proper manning of shifts;
- 8.3.1.24** Oversees the maintenance and upkeep of buildings and real property of the District;
- 8.3.1.25** Assists the Director of Highways in overseeing and maintaining 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;
- 8.3.1.26** Oversees and directs the building of bridges, culverts, and/or the repair of the same;

- 8.3.1.27 Causes roads or banks to be properly graded and maintained. Inspects special road maintenance problems that may arise (such as slides, snow, ice, flooding and drainage) and recommends action;
- 8.3.1.28 Ensures that roads are properly prepared before the work of chip sealing and paving begins. The Highway Foreman shall supervise and inspect (through his subordinates) the work of the crews in progress and upon completion of the job;
- 8.3.1.29 Is familiar with all the equipment and vehicles needed by the District;
- 8.3.1.30 Assumes responsibility for observance of safety rules by all personnel; and
- 8.3.1.31 Uses the Highway District's computers as required by the Director of Highways.
- 8.3.1.32 Carries a pager/sign phone on a rotating schedule.

8.3.2 District Maintenance Worker - Requirements: A District Maintenance Worker must have the following licenses, knowledge and skills:

- 8.3.2.1 Maintains a good driving record and holds a valid Idaho Class A Commercial driver's license.
- 8.3.2.2 Has good knowledge of road construction and maintenance activities; of tools and material used in the work;
- 8.3.2.3 Has good knowledge of principles and practices of truck operations;
- 8.3.2.4 Has good knowledge of traffic laws, ordinances and rules applicable to motor vehicles and construction equipment.
- 8.3.2.5 Practices safety precautions and is aware of hazards that may be encountered.
- 8.3.2.6 Able to detect needed repairs and make necessary simple adjustments in the field to keep equipment operating;
- 8.3.2.7 Able to understand and carry out all oral and written instructions;
- 8.3.2.8 Able to work independently and perform manual labor for long periods under adverse conditions.
- 8.3.2.9 Maintains a positive and good working relationship with other employees and supervisors at all times.
- 8.3.2.10 Arrives at work on time and maintain a regular and reliable level of attendance.
- 8.3.2.11 Is available for duties other than described above for routine sign repair call-out and any other after hour emergencies that arise.

8.3.2.12 Responds to work within forty (40) minutes of notification to respond to work for any duty that arises.

8.3.3 Wage and/or Salary for Non-Appointed Positions: Wages and/or salary for Non-Appointed Positions shall be established by the Board of Commissioners by resolution which action is not included in this Policy Code.

CHAPTER 4 PERSONNEL CLASSIFICATION

8.4.1 Employment Position Classification: Each employment position of this Highway District is classified based on its duties, responsibilities and requirements. Each employment position classification has a description which sets forth the general duties and responsibilities and the qualifications required. Employment position classification and descriptions are set forth in this Policy Code.

8.4.2 Definitions: The following provisions define the Employment Position classifications:

8.4.2.1 Anniversary Date. An employee's original anniversary date is the date of hire for current continuous employment. As such, it establishes eligibility for longevity.

8.4.2.2 Hourly. An employee whose wages are computed on the number of hours worked in a pay period (80 hrs.). Hourly employees are eligible for overtime pay.

8.4.2.3 Exempt. Employees who hold a position which is classified by the Commissioners which by job description and duties is exempted under the Fair Labor Standards Act from overtime pay.

8.4.2.4 Employee. An employee generically refers to any person/s employed by the Highway District whether as a Probationary Employee, Employee, Seasonal Employee, or an Appointed Officer.

8.4.2.5 Probationary Employee. A person who holds an appointed Probationary Position and is not seasonal and who has not yet completed his/her probationary term.

8.4.2.6 Probationary Term. Any person who is not a Seasonal Employee who commences employment with the Highway District is hired and appointed by the Board of Commissioners upon recommendation of the Director of Highways to serve an initial six-month probationary term unless a shorter term is prescribed by the Board. In the event a Probationary Employee completes this six-month probationary term and upon recommendation of the Director of Highways confirmed by the will of the Board of Commissioners, the Probationary Employee may then establish Employee status.

8.4.2.6.1 The Probationary Term for Probationary Employees hired during the first fifteen days of a month will be calculated from the first of the month in which they are hired. For Probationary Term Employees

hired after the fifteenth day of the month the probationary period will be calculated from the first of the following month. Probationary Employees will be eligible to receive fringe benefits during this probationary period as an Employee would.

8.4.2.7 Seasonal Employee. A Seasonal Employee position is established to meet special needs of the Highway District during periods of peak workload and for periods of less than five months in duration and which position is not expected to be re-budgeted on a year-long basis. Seasonal Employees receive no fringe benefits except for Workers' Compensation.

8.4.2.7.1 In the event a seasonal employee has maintained continuous employment and is transitioned to an employment position, the time served as a seasonal employee will be applied towards satisfaction of the probationary term.

CHAPTER 5

EQUAL EMPLOYMENT/HIRING POLICY; EQUAL EMPLOYMENT COORDINATOR AND DISCRIMINATION COMPLAINT PROCEDURE

[Amended 8.5.2 by Resolution 2018-01, Passed January 23, 2018]

8.5.1 Equal Opportunity Employment: It is District policy to comply with the Constitutional and Statutory rights of its citizens to equal employment opportunity and to that end the District will hire, evaluate, promote, classify, transfer, discipline and discharge all persons without reference to race, color, religion, sex, age, national origin minority population status, limited English proficiency or non-job-related handicap [disability]. No job or class of jobs will be closed to any individual because of the listed criteria, except where a mental or physical attribute, sex, age, or English proficiency is a bona fide occupational qualification of the employment. See the following:

- Equal Employment Opportunity Act of 1972; and
- Federal Highway Transportation Act of 1973; and
- Presidential Executive Orders Nos. 12898 and 13166; and
- Regulations issued by the Equal Employment Opportunity Commission.

The District intends to assure that employment decisions are based solely upon the individual's qualifications as they relate to the requirements of the position being sought or to be filled, and that the decisions for promotion will be made solely on the individual's qualifications as related to the requirements of the position for which he/she is being considered.

8.5.2 Employment of Relatives. Except for appointed offices, the Highway District will not consider applicants for Probationary, seasonal and/or Employment positions who are related to a current Employee or Employee's spouse in any of the following categories, including the step-relations in these categories: grandparents, parents, grandchildren, children, uncles, brothers, nephews, aunts, sisters or nieces.

8.5.2.1 In the event an appointed officer is related to any current Employee or to any of the Employee's relatives as set forth in this section, then in that event, the appointed officer shall be required [in order to be employed by the Highway District or to continue to be employed by the Highway District] to sign a confidentiality agreement in the form set forth in appendix 8.5.2.1 and said appointed officer shall not be involved in the process of any personnel matter involving the employee to whom they are related.

8.5.3 Equal Employment Coordinator: There is hereby established the position of Equal Employment Coordinator, which position shall be held by the Director of Highways.

8.5.4 Responsibilities of the Equal Employment Coordinator: The Equal Employment Coordinator shall:

8.5.4.1 Be responsible for initiating and monitoring all the equal employment policy activities and preparing any required reports of the Highway District; and

8.5.4.2 Adequately implement the civil rights requirements; and

8.5.4.3 Process complaints of discrimination. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information; and

8.5.4.4 Collect statistical data (race, color, national origin, sex) of participants in and beneficiaries of the Transportation programs and activities conducted by the Highway District; and

8.5.4.5 Conduct equal employment policy reviews of the Highway District and sub-recipient contractor/consultant program areas and activities. Prepare any revisions where applicable, policies, procedures and directives to include equal employment policy requirements subject to Board of Commissioner approval; and

8.5.4.6 Attend training programs on equal employment policy and related statutes conducted by Idaho Transportation Department's EEO Office as needed; and

8.5.4.7 When required by agreement, by law or pursuant to direction of the Board of Commissioners, prepare a yearly report of equal employment policy accomplishments for the last year and goals for the next year.

8.5.4.7.1 Annual Work Plan: Outline equal employment policy monitoring and review activities planned for the coming year; and state which activity will be accomplished and a target date for completion; and

8.5.4.7.2 Accomplishment Report: List major accomplishments made regarding equal employment policy activities. Include instances where equal employment policy issues were identified and discrimination was prevented. Indicate activities and efforts the Equal Employment Coordinator and program area personnel have undertaken in monitoring equal employment. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Equal Employment Coordinator. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Equal Employment complaints filed with the Highway District.

8.5.5 Discrimination Complaint Procedure

8.5.5.1 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 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the Highway District Secretary. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Highway District's Equal Employment Coordinator for review and action.

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

8.5.5.2.1 The date of alleged act of discrimination; or

8.5.5.2.2 Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

8.5.5.3 In either case, the Equal Employment Coordinator may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

8.5.5.4 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 Highway District, the person shall be interviewed by the Equal Employment Coordinator. If necessary, the Equal Employment Coordinator will assist the person in reducing 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 Highway District's investigative procedures.

8.5.5.5 Within ten (10) days, the Equal Employment 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 other avenues of redress available, such as the United States Department of Education (USDOE).

8.5.5.6 Within sixty (60) days, the Equal Employment Coordinator will conduct an investigation of the allegation and, based on the information obtained, render a recommendation for action in a report of findings to the Highway District'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.

8.5.5.7 Within ninety (90) days of receipt of the complaint, the Highway District's Equal Employment Coordinator will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter.

CHAPTER 6 PERSONNEL CONDUCT

8.6.1 Employment Conduct: The Highway District is a public agency supported by the residence, property owners, and highway users within the boundaries of the Highway District and the state of Idaho. Probationary, Seasonal, and all other Employees are expected to maintain standards of conduct and appearance that are respectful and are in the reasonable conduct of their position.

8.6.2 In operation and use of Highway District Equipment and Vehicles: Use the same for official business only unless on call, and be responsible for the vehicle and adhere to reasonable careful driving practices and observe all traffic laws and regulations.

8.6.2.1 Only authorized drivers are to be permitted to operate Highway District equipment.

8.6.2.2 Persons other than Highway District employees will be permitted as passengers only under official business, emergency conditions, or in authorized carpooling arrangements.

8.6.3 Driving Safety

8.6.3.1 Working in the streets and around operating equipment is a hazardous business. Each employee must be constantly alert to reduce the potential for accidents.

8.6.3.2 Accidents are costly to the District and to employees. The costs of insurance and Workers' Compensation plans are based on the Highway District's accident record. Therefore, money paid for high accident rates is money that could have gone for salaries or other fringe benefits.

8.6.3.3 Motor Vehicle Accidents: Almost everyone in the employ of the Highway

District is required to drive vehicles and equipment from time to time. It is essential that each employee be especially conscious and drives safely.

8.6.3.4 Motor vehicle accident records are an important part of determining an individual's fitness for Highway District employment. The Highway District monitors the motor vehicle accident records of employees, and disciplinary action may be taken against individuals who present a hazard.

8.6.3.5 Highway District employees may be required to take the National Safety Council Defensive Driving Course.

8.6.3.6 **Vehicle Accident Reporting:** In the event an employee is involved in a vehicle accident which involves damage to Highway District vehicle, another vehicle, properties, animals or personal injury, the following procedure shall be followed:

8.6.3.6.1 Do not move the vehicle.

8.6.3.6.2 Notify the Police immediately.

8.6.3.6.3 Notify the Director of Highways or Highway Foreman.

8.6.3.6.4 Notify employee's supervisor.

8.6.3.6.5 Administer First Aid to injured parties, only if you possess a valid Red Cross Card. Otherwise, make the injured party or parties as comfortable as possible and wait for the Police and ambulance.

8.6.3.7 **Backing:** Prior to backing, employee drivers of all vehicles will check to insure no obstructions exist in back of them. If the area is clear, the transmission will be placed in reverse while the brake is on and the vehicle stopped. If the equipment has a backing device, wait five (5) seconds while the vehicle's backing alarm sounds prior to releasing the brake and beginning to move.

8.6.3.8 **Driving Policy for Operation of Highway District Trucks:** Each driver will operate trucks on public roads, in accordance with the following:

8.6.3.8.1 55 mph on county roads or posted speed

8.6.3.8.2 55 mph on state roads or posted speed

8.6.3.8.3 Stop at all stop signs; obey all regulatory signs.

8.6.3.8.4 On gravel or dirt roads, keep dust at a minimum or use water truck.

8.6.3.8.5 Take all curves at a reasonable speed. Gear down!

8.6.3.8.6 Drive according to road conditions. Use good judgment!

8.6.3.8.7 Be kind and courteous to the public.

8.6.3.8.8 Yield the right-of-way in any situation.

8.6.3.9 Consequences for failure to adhere to this Driving Policy are as follows:

8.6.3.9.1 First verbal warning will go in the employee's file. Any complaint from the public is the same as a verbal warning.

8.6.3.9.2 Second warning within one year will result in a three (3) day suspension.

8.6.3.9.3 Third warning within a two-year time period from the first offense may result in dismissal.

8.6.4 Hard Hats and Safety Vests

8.6.4.1 Hard hats are required to be worn employees in designated "Hard Hat Areas".

8.6.4.2 All employees working in roadways are required to wear Class III vests issued by the district.

8.6.4.3 The wearing of the hard hat and safety vest is a condition of employment and shall be strictly enforced. If there is a doubt, all employees are encouraged to resolve the question by wearing this protective equipment. In addition to the above situations the hard hat shall be worn: when working on, around, under, or near rock crushers, mixing or batch plants, irrigation structures, conveyors, borrow source, as dump man or checker, drilling operations, brush cutting, and whenever equipment is operated including bulldozers, backhoes, mowing machines, front-end loaders, distributor bootman, chainsaw, brush mulcher, jack-hammer, pavement breakers, paint stripper, boom truck, etc. (Bump hat may be worn by personal choice by personnel working maintenance on vehicles, and signal controllers).

8.6.4.4 Employees shall comply with contractor's safety policy on construction projects when policy is more stringent than that of the Highway District.

8.6.4.5 Truck drivers and front end loader and patrol operators are not required to wear a hard hat in the cab, but when they dismount the hard hat must be worn as long as the equipment is running. Supervisory personnel and Right-of-Way personnel will not be required to wear safety vest unless in a construction or maintenance area where it is mandatory or where they are actively working in a traveled right-of-way.

- 8.6.4.6** Federal and State regulations require the use of the hard hat as mandatory on any inside or outside assignment where there is a possibility of a head injury.
- 8.6.4.7** The hardhat to be used by District employees shall be that of District issue and will meet the current Federal specifications for hard hats.
- 8.6.5 Hearing Protection:** Prolonged exposure to high noise levels causes permanent hearing damage. Therefore, employees working under conditions of high noise levels will be required to wear hearing protection equipment. Such equipment will also be available to employees that request it due to their occasional exposure to high noise levels.
- 8.6.6 Pager/Sign Phone Policy**
- 8.6.6.1** The Pager/Sign Phone is monitored at all times by Highway District personnel in order to receive information from law enforcement officials regarding the need for repair or replacement of road signs.
- 8.6.6.2** The Director of Highways or the Foreman will place certain experienced employees on the pager/sign phone list, and new employees will be alternates. When the director determines a new employee has the necessary training to take care of emergencies, the new employee will be added to the rotation.
- 8.6.6.3** If an employee is unable to be called out during the assigned week, it is the employee's responsibility to trade weeks with another employee who is on the rotation. The employee making such request must fill out the approved form prior to the week he/she is on rotation and have the trade approved by either the foreman or director. Any questions should be addressed to the foreman or director.
- 8.6.6.4** All employees of the Highway District are required to indicate receipt of this policy by signing the **Pager/Sign Phone Policy form** [approved by the highway district commissioners] and returning it to the Director of Highways or Highway District Secretary. The signed form will then be retained in the employee's personnel file.
- 8.6.6.5 Procedure for responding to Pager/Sign Phone calls:**
- 8.6.6.5.1** Record in the log book the time the call is received and the caller's name, phone number and the address or location [intersection, etc.] of the reported problem;
- 8.6.6.5.2** Verify that the location is within the District. If the requested repair is not in Golden Gate Highway District, inform the caller of the correct district, and enter the call and your response in the logbook;
- 8.6.6.5.3** Refer to the sign guide handbook as to the types of signs and their

importance, and make repairs according to the sign guide and the Manual of Uniform Traffic Control [MUTCD] manual. Call the foreman or director for guidance if necessary;

8.6.6.5.4 A vehicle in the district's main yard is equipped to take care of road and/or sign problems. Inventory the signs, posts and hardware in the vehicle before leaving the yard to ensure that the vehicle is equipped with the necessary supplies to finish the job without having to return for more supplies;

8.6.6.5.5 Inform the foreman or director for calls that require calling out other employees [i.e. sanding, plowing, etc.];

8.6.6.5.6 Record the time the repair was completed; and

8.6.6.5.7 Inform the caller that the problem has been corrected.

8.6.7 Cellular Phone Policy

8.6.7.1 Definition: Cellular Phones include any wireless device, including tablet personal computers, which may be used to communicate or receive data, place telephone calls, transmit text messages and/or e-mail and/or connect to the internet.

8.6.7.2 Compliance with State and Local Law: District employees are expected to comply with state and local law, including, but not limited to, regulations impacting cellular phone usage while driving or in public.

8.6.7.3 Cellular Phone Use While Driving: Under no circumstances should an employee place himself/herself or others at risk to fulfill District operational needs by making or receiving cellular phone calls while operating a District motor vehicle. For the safety of District employees and others, an employee who is driving a District vehicle must pull over and stop at a safe location to dial, receive or converse on a cellular phone. If acceptance of a work-related call is unavoidable due to loss of radio service and pulling over is not an option, employees are expected to use the hands-free option to answer the call while keeping his/her eyes on the road and to pull over and stop at a safe location as soon as is feasible.

8.6.7.4 Disciplinary Action: Failure to adhere to the Highway District's cellular phone policy may result in disciplinary action up to and including termination.

8.6.7.5 Personal Cell Phone Use Policy

8.6.7.5.1 Personal cell phones may be used only during lunch time or break

time unless otherwise approved by the Director under special circumstances.

8.6.7.5.3 Loss, Damage or Theft: The District will not be liable for the loss, damage or theft of personal cellular phones brought into the workplace.

8.6.7.6 District-Provided Cellular Phone Use Policy

8.6.7.6.1 District-provided cellular phones are issued to employees whose job tasks demonstrate a District operational need for communication capabilities when the employees are away from the office. While cellular phones are a necessary convenience of the business world, the District requires that employees follow the guidelines and requirements as listed in this policy.

8.6.7.6.2 Personal Use: Employees are strongly discouraged from using District-provided cellular phones to make personal calls. The District recognizes, that in some circumstances such use may be necessary. Flexibility will be provided in emergencies or situations demanding immediate attention.

8.6.7.6.3 Texting: Texting on District-provided cellular phones is allowed for District operational use only. Texting for personal reasons is not allowed. Failure to follow this policy may result in disciplinary action.

8.6.7.6.4 Photographs: Taking and receiving photographs on a District-provided cellular phone is allowed for District operational needs only. Taking and receiving pictures for personal reasons is not allowed. Failure to follow this policy may result in disciplinary action.

8.6.7.6.5 Payment for Personal Use: District cellular phone bills are audited on a regular basis. Employees who use a District-provided cellular phone for personal reasons may be asked to identify their personal calls on the District's bill. An Employee agrees by his/her receipt of this policy that the District is authorized to require the employee to pay the monthly charges that correlate to the identified personal use of the District-provided cellular phone. Payment for personal use of a District-provided cellular phone does not constitute permission to use the District-provided cellular phone as a personal cell phone.

8.6.7.5.6 Disruptive Use: Employees are expected to exercise the same discretion in using cellular phones as is expected for the use of desk phones. Excessive calls or other potentially disruptive use interferes with productivity and can be distracting to others and is not

appropriate. Complaints of excessive or inappropriate cellular phone use may lead to disciplinary action.

8.6.7.6.7 Loss, Damage or Theft: Employees in possession of a District-provided cellular phone are expected to protect the equipment from loss, damage or theft. Upon resignation or termination of employment, or at any time upon request, an employee may be asked to produce the cellular phone for return or inspection. If the employee is unable to present the cellular phone in good working condition within the time period requested, the employee may be expected to bear the cost of replacement.

8.6.7.6.8 Voice and Electronic Mail/Computer Use: The District's electronic information resources are the property of the District and are to be used for District operational needs only. District electronic information includes all information systems, computers, word processing and communications facilities, e-mail and voice mail systems, accounts with on-line services and access mechanisms to those services and for the Internet as a whole. The District reserves the right to monitor the use of its electronic information resources, including the right to override individual passwords or other security techniques. All passwords and codes must be disclosed to the District in order to facilitate the District's access to these resources. There should be no expectation of personal privacy on the part of employees with respect to their use of these resources.

8.6.7.6.9 Privacy: There should be no expectation of personal privacy on the part of employees with respect to his/her use of a District-provided cellular phone.

CHAPTER 7 SEXUAL HARASSMENT

8.7.1 Sexual Harassment Policy Statement: The sexual harassment of any employee or recipient of the services of the Highway District is absolutely forbidden. The Highway District has designated the Director of Highways as the official who is responsible for receiving and investigating complaints of sexual harassment. Any employee, supervisor or manager who is made aware of an alleged incident of sexual harassment will take immediate action to bring the matter to the attention to the Director of Highways who will take immediate action pursuant to this policy.

8.7.2 Definition. According to the Equal Employment Opportunity Commission, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

8.7.2.1 Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

8.7.2.2 Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

8.7.2.3 Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

A person who is qualified for but denied an employment benefit because of another's submission to sexual harassment may be protected by Title VII of the 1964 Civil Rights Act.

8.7.3 Sexual Harassment Policy Distribution: This policy will be distributed to all employees. Supervisors are expected to take appropriate steps to make all employees aware of it.

8.7.4 Investigation and Resolution Process:

8.7.4.1 Filing: Employees who believe they are being subject to illegal sexual harassment are encouraged to file complaints with the Director of Highways. Due to the sensitivities associated with this subject, the normal Highway District grievance procedure will not apply. If an employee chooses she/he may bypass the Highway District procedure entirely and file a sex discrimination claim directly with the Idaho Human Rights Commission and/or the Equal Employment Opportunity Commission.

8.7.4.2 Confidentiality: Due to damage that could result to the career and reputation of any person falsely or in poor faith accused of sexual harassment, all investigations and hearings surrounding such matters will be designed to the maximum extent possible to protect the privacy of, and minimize suspicion toward the accused as well as the complainant. Only those persons responsible for investigating and enforcing civil rights matters will have access to confidential communications.

8.7.4.3 Any employee aware of or suspecting the occurrence of sexual harassment will be expected to report the matter through the most confidential and direct means possible to preserve morale and discipline in the work unit. Steps include:

8.7.4.3.1 Making a statement of known facts in writing to the designated Highway District official.

8.7.4.3.2 Avoiding discussion of the matter with co-employees and persons not directly responsible for investigating the matter.

8.7.4.4 Investigation Procedure: When an allegation of sexual harassment is made of any employee the designated Highway District official will take immediate steps to:

8.7.4.4.1 Remove the complainant from under the control of the accused. This

may be effected through reassignment, administrative leave or placing both the accused and the complainant under suspension for investigation.

8.7.4.4.2 Obtain a statement or grievance from the complainant regarding the times dates, places and circumstances surrounding the allegations.

8.7.4.4.3 Discuss the matter with accused.

8.7.4.4.4 Obtain statements of witnesses or possible witnesses, if any.

8.7.4.4.5 Prepare a report of the- investigation and submit it to the Board of Commissioners of the Highway District.

8.7.4.5 **Action and Resolution:** Based on the report, the Board of Commissioners shall take immediate and appropriate corrective action in determining whether conduct constitutes sexual harassment. The Board of Commissioners will look at the record as a whole and at the totality of the circumstances, such as the nature of the alleged sexual advances and the context in which they occurred. Determination of the legality of a particular action will be made from the facts on a case by case basis.

8.7.4.5.1 If there appears to be no foundation to the allegation, the case will be closed and the complainant will be advised of his/her right to proceed onto the state or federal agencies or directly into District Court. No record shall be made of the allegation in either the accused or accuser's personnel records. A reiteration of the policy against sexual harassment may be appropriate. Bad faith allegations or use of this policy for unintended purposes may result in disciplinary action against the accuser.

8.7.4.5..2 If a foundation for the allegation exists, disciplinary action against the offending employee will follow. The disciplinary action will be commensurate with the scope and severity of the occurrence and may include, but is not limited to, demotion, suspension, dismissal, warnings, or reprimands.

CHAPTER 8

SUBSTANCE ABUSE POLICY

8.8.1 **Substance Abuse Policy:** The following is guidance for the procedures, requirements and policy of Highway District in compliance with the United States Department of Transportation (DOT) procedures as established in 49 CFR Part 40 Drug Testing Program. This policy pertains to those employees of the Highway District who are required to hold a Commercial Drivers License (CDL) as a condition of their employment with this Highway District.

8.8.1.1 The Highway District has contracted with a drug testing service to insure compliance with the federal regulations cited above.

8.8.2 Purpose: The purpose of this policy is to provide consistent and relevant guidelines regarding alcohol and drugs and to encourage an enlightened viewpoint toward alcoholism and other drug dependencies as behavioral-medical problems which can be treated. The consortium and Highway District intend to provide a drug-free, safe working environment; employees are expected to be in suitable mental and physical condition at work, performing their jobs satisfactorily and behaving appropriately. Where the use of alcohol and other drugs interfere with such expectations, employees will be offered appropriate assistance. Failure to meet these basic expectations will result in disciplinary action. This policy is applicable to employees at all times; i.e., it applies to the consumption of illegal drugs or alcohol and its possible effect on the job performance, regardless of when their consumption may have occurred or whether it occurs during work periods or off duty. This policy does not preclude the consumption of alcohol during off-duty hours wherein such use does not affect job performance afterwards.

8.8.3 The Highway District will give the same consideration to persons with chemical dependency problems as it does to employees having other health problems. Seeking assistance will not jeopardize an employee's job, whereas continued performance, attendance or behavioral problems will.

8.8.4 Procedures: The following procedures will be followed in the administration of this substance abuse policy:

8.8.4.1 Drug and Alcohol Pre-Employment Screening

8.8.4.1.1 All applicants considered for employment will be screened for drugs.

8.8.4.1.2 Applicants will be requested to sign a consent-release form authorizing the physician or medical clinic to perform the drug screening and submit the results to the Highway District.

8.8.4.1.3 Applicants who refuse to sign the consent-release form or who show traces of illegal drugs will not be considered for employment for six months. Those who reapply for employment will again be asked to sign a consent-release form and be required to pass a drug screening test.

8.8.4.1.4 Applicants shall be given only one valid drug screening test within a six month period.

8.8.4.1.5 Positive results from the drug screening test will be communicated to the applicant as per DOT policy.

8.8.5 Use on Highway District Premises: Alcohol or other drugs are not to be brought onto

Highway District owned or leased Premises, project sites, highways, right-of-ways, and Highway District vehicles, nor consumed there at any time, except as medically necessary. The sale, purchase, use or possession of illegal drugs will result in disciplinary action, up to and including termination and possible legal prosecution. An appropriate law enforcement authority will be notified when applicable as determined by Highway District

8.8.6 Use During Working Hours

- 8.8.6.1** The drinking of alcoholic beverages or using of other drugs, other than for medical reasons, during working hours is prohibited, whether on or off Highway District property.
- 8.8.6.2** Drinking alcohol or using other drugs during meal breaks is prohibited. Even minimal consumption of alcohol may have a negative effect on individual functioning (alcohol is a depressant), and therefore is of concern.
- 8.8.6.3** Employees reporting or returning to work whose behavior reflects the Consumption or alcohol or other drugs may be referred for a medical evaluation to determine fitness for work and/or may be sent home by Commercial transportation by their supervisor, pending determination of appropriate action.
- 8.8.6.4** When prescribed over-the-counter drugs may affect behavior and performance, employees are encouraged to advise their supervisor that they are taking such drugs for medical reasons. Medical evaluation may be required. Where use of such drugs adversely affects job performance, it is in the best general interest of the employee, co-workers and the District that the employee be relieved of his/her job duties temporarily.

8.8.7 Medical Evaluation

- 8.8.7.1** Employees will be tested periodically. Where there is reasonable cause, an Employee may be asked to report to a Highway District-designated physician or medical clinic on company time and at District expense for a fitness-for-duty examination. This could involve appropriate testing, as determined by the Highway District.
- 8.8.7.2** Employees will be asked to authorize the release of tests to the Highway District. The consent-release form will be supplied by the Highway District.
- 8.8.7.3** The decision to go for a medical evaluation is voluntary, but if the examination is refused or if a consent-release form is not signed, the employee may be subject to disciplinary action up to and including discharge.
- 8.8.7.4** Those having positive screens (from a voluntary commitment/disclosure) will be required to complete a medical dependency evaluation as part of the medical procedure. Positive results will also require the employee to seek rehabilitation. The employee may be subjected to further screening.

- 8.8.7.5 Failure of employee to enroll or participate in a recognized rehabilitation program at the request of the Highway District will result in the employee being disciplined up to and including discharge.
- 8.8.7.6 Employees returning from a treatment program or completing an out-patient program will be required to consent to random testing as a part of retaining his/her job, and be involved in a Continuing Care Plan for at least 30 months.
- 8.8.7.7 Employees found to have a positive test resulting from a random screening (involuntary), and without otherwise mitigating circumstances, will be discharged.

8.8.8 Actual Observation of Drug Transaction

- 8.8.8.1 It is very important that supervisors fulfill their roles as supervisor, representing the company and not assume the role of law enforcement officers. In the case of illegal possession, transfer or sale of narcotics or other drugs, there are specific legal requirements which must be met to obtain a conviction. A supervisor having questions about suspected drug trafficking is required to contact Highway District immediately.
- 8.8.8.2 Supervisors can and should ask questions about any curious or unusual behavior. It is very important that supervisors not make accusations, but they should ask questions. Treat information in such situations as confidential to protect employees in and away from the workplace.

8.8.9 Evidence Collection

- 8.8.9.1 Supervisors or other employees are not to initiate or conduct searches of any persons or their property. Searches can only be authorized by the Highway District or local enforcement authorities.
- 8.8.9.2 Questions should be asked. A supervisor can ask to see, for example, what is in a tool box, package, lunch box, or briefcase, but cannot force disclosure.
- 8.8.9.3 A person cannot be detained or searched against his/her will.
- 8.8.9.4 Should an employee come into possession of suspected drugs, Highway District is to be notified immediately and will arrange for testing by an appropriate official for disposition. This policy is not intended to restrict the immediate notification of police or other appropriate authorities when the situation demands their immediate intervention.
- 8.8.9.5 In circumstances where behavior requires that a person be restrained or removed from the District premises or project job sites, the supervisor should contact Highway District and the local law enforcement authorities.

8.8.10 Disciplinary Action: The Highway District views the use, possession, transfer or sale of alcohol or drugs in violation of this policy as being very serious and subject to disciplinary action which may include termination and the decision to pursue legal protection. At the same time, the Highway District recognizes that such violations may occur as a result of a physical or psychological dependency on a drug. The purpose of disciplinary action is to correct a possible problem and to motivate the employee to see or accept help, as appropriate. Decisions to terminate an employee will be made on the basis of a pattern of performance, attendance or behavior problems, as appropriately documented, and not on the basis of being diagnosed chemically dependent. Where the employee's performance is believed to be connected with the chemical dependency, consideration will be given. Termination will occur when an employee has either rejected assistance or has demonstrated a lack of serious commitment to overcoming the problem to achieve a satisfactory level of performance. An employee actively involved in a treatment program will not be terminated without consulting with the treatment facility.

8.8.11 Documentation: Records pertaining to job performance, attendance and behavior will be maintained in the employee's file. No reference to alcohol or other drug problems as a medical diagnosis should appear in personnel files, this does not preclude documenting behavior associated with alcohol or other drugs, such as slurred or incoherent speech, stumbling, smelling or alcohol, found possessing alcohol or other drugs, etc. All formal records concerning the evaluation or medical diagnosis and treatment of chemical dependence will be kept in a secure area with limited access.

8.8.12 Acknowledgment by Employee: All employees will be asked to sign acknowledgment and provide the information as stated in the **Acknowledgment by Employee** [Forms Book].

8.8.13 Consent to Testing: Consent to substance abuse testing is a condition of employment in accordance with the following:

8.8.13.1 An offer of employment with the Highway District is conditional upon successful result of a drug test prior to the first time an employee performs a safety-sensitive function in the course and scope of their employment with the Highway District.

8.8.13.2 All employees and applicants for employment who are offered employment must consent to testing by signing the **Consent/Release of Information** form [Forms Book] and being tested. An employee's signature indicates consent to testing on a urine specimen provided by the employee in order to determine the presence of controlled substance(s). The result of the test will be used to determine eligibility for employment with the Highway District. An applicant who fails to report for testing within 24 hours of being directed to do so by the Highway District will result in recession of the Highway District's offer of employment.

CHAPTER 9 DISPUTE RESOLUTION & DISCIPLINE

8.9.1 Resolution of Questions and Problems: All employees shall have access to the chain of command and are free to use it when:

8.9.1.1 They have questions about their duty; and

8.9.1.2 They are unable to resolve problems or need advice; and

8.9.1.3 Disputes between employees are not able to be resolved by the employees; and

8.9.1.4 Employees are allowed to converse with the Highway District Commissioners in regards to casual/ problem-solving topics not involving a specific employee of incident. However, Employees are strongly encouraged to use the appropriate chain of command when topics involving employee work and duty and related administrative matters.

8.9.1.5 Employees are required to know the chain of command. Supervisors shall attempt to resolve questions or problems in a timely manner. If this is not possible, the questions and/or problems should be addressed by the next level of the chain of command.

8.9.2 Internal Investigation and Discipline: It is the purpose of this Section to establish fair and equitable departmental procedures governing the administration of internal investigations and discipline.

8.9.2.1 Complaints: Only complaints that are in writing, contain a full and detailed account of the alleged incident and are signed and dated by the complainant will be considered valid and may warrant further investigation.

8.9.2.2 Notification in Writing: If a complaint is received in regards to an employee of the District, said employee will be notified in writing and a written rebuttal shall be requested. All aspects of the complaint will be investigated by a person or persons designated by the Director of Highways. The person(s) identified in the complaint will be notified in writing of the results of the investigation, and of any resulting disciplinary action, when appropriate. The employee identified in the complaint has the right to legal counsel at any time.

8.9.2.3 Entitlement to Process: All Employees of the Highway District are entitled to the grievance and/or appeals process as later outlined.

8.9.3 Disciplinary Actions. Seasonal Employees, Probationary Employees and Employees are subject to the following disciplinary actions for violations of Highway District policies, rules or regulations Disciplinary actions are to be considered in accordance with the seriousness of the matter which may include past employee discipline history.

8.9.3.1 Oral reprimand: is communicated by the Employee's supervisor and which oral

reprimand may be made in writing but is not placed in the personnel file unless there are further violations.

8.9.3.2 Written reprimand: is made and communicated by the Employee's supervisor. A copy of the written reprimand is placed in the employee's personnel file.

8.9.3.3 Suspension with pay: may be made and communicated by the supervisor and or the Director of Highways for a reasonable period of time not to exceed 28 days without approval of the Board of Commissioners for a longer period and may be instituted when an employee is suspected of having violated policies, rules or regulations which would warrant Dismissal and time is needed to investigate the matter and during said period the employee may not appear at any work site or at the administrative offices of yard during the suspension unless requested by the Supervisor. The Supervisor or Director of Highways may terminate the suspension at any time.

8.9.3.4 Suspension without pay: is made and communicated by the Employee's supervisor and which suspension is without pay for a period of not greater than three (3) work days and the employee may not appear at any work site or at the administrative offices of yard during the suspension unless requested by the Supervisor.

8.9.3.5 Dismissal: A recommendation to the Board of Commissioners of good cause to dismiss an employee may only be made by the Director of Highways after the employee has been fully informed of the grounds and reasons for the action and the Employee has been given opportunity to respond to any Supervisor recommending the action and the Director of Highways. The procedures of Section 8.9.6.1 are then followed.

8.9.4 Reasons For Disciplinary Actions: Any violation of a Highway District rule, regulation and/or policy appertaining to employment behavior or performance is the subject of disciplinary action and in addition thereto the following if work related or related to job performance may also be the subject of disciplinary action:

8.9.4.1 Conviction of an infraction, misdemeanor and/or felony. An employee may be dismissed if he/she is negligent or inefficient in his/her duties, if he/she misstates material facts on the application form or for violation of certain other rules. An employee may also be dismissed without prior notice if he/she is found guilty of gross misconduct in connection with his/her duties or if he/she is convicted of a felony or misdemeanor involving moral turpitude. Conviction in this instance means a final verdict of guilty in a court of records, or a withheld judgment.

8.9.4.2 Unexcused absence from work.

8.9.4.3 Tardiness.

8.9.4.4 Inefficiency

8.9.4.5 Abuse of property.

- 8.9.4.6 Drinking or being under the influence of alcohol or a controlled substance, without a prescription or as authorized by law during working hours, while on duty.
- 8.9.4.7 Violation of a Highway District policy or rule.
- 8.9.4.8 Supplying false information on an employment application.
- 8.9.4.9 Falsifying a Highway District record including time records for employment pay.
- 8.9.4.10 Insubordination and/or failure to follow chain of command.
- 8.9.4.11 Verbal or physical abuse of other employees, officers and/or the public.
- 8.9.4.12 Failure to report incidents involving damage and/or danger to Highway District property and/or personnel when observed and/or within the scope of employment to report such matters.
- 8.9.4.13 Violation of a suspension.

8.9.5 Disciplinary Actions Not Requiring Highway District Commissioner Approval

- 8.9.5.1 **Oral Warning:** When grounds for disciplinary action exist and it is determined that a more severe action is not immediately needed, the supervisor officer may orally communicate the deficiency to the employee. Written record of an oral warning may be made but is not placed in the employee's personnel file. In the event a written record of an oral warning is made the same shall be signed by the employee's supervisor and delivered to the employee.
- 8.9.5.2 **Written reprimand:** A supervisor may reprimand an employee for just cause. Such written reprimand shall be in writing, and shall contain a brief statement of the misconduct, inadequacies, or other grounds for discipline. The supervisor will discuss the problem(s) with the employee, at the conclusion of which time; the employee will acknowledge being informed, by signing the reprimand. In the event a written reprimand is made, the same shall be signed by the employee and the supervisor, with a copy to the employee and the original is given to the Director of Highways and is delivered to the Secretary to be placed in the personnel file by the Secretary.
- 8.9.5.3 **Suspension.** Only the Director of Highways may place employee on suspension whether the suspension is with or without pay. Suspension status terminates at the end of the term imposed. The imposition of Suspension status is based upon cause and recommendation of supervisor and may only be imposed after a meeting is conducted with the employee, the Director of Highways, and the supervisor wherein the employee is advised of the cause and the proposed action

and given an opportunity to respond. Any employee placed upon Suspension status will be notified in writing of their placement on Suspension, the reasons why, and the beginning and ending dates of the Suspension. The Director of Highways shall sign the order of Suspension status and provide a copy to the employee and the original shall be placed in the employee's personnel file after the Director of Highways delivers the same to the Secretary for filing in the personnel file.

8.9.5.3.1 Actions imposing suspension status shall be reported to the Commissioners in the Director of Highway's report and in executive session. The Report shall be limited to the following information only: Identity of the employee, the date the action took effect and the terms of the suspension review status.

8.9.6 Disciplinary Actions Requiring Approval by the Highway District Commissioners. The following actions must be approved by Commissioner Action:

8.9.6.1 Dismissals: An employee of the Highway District, whose actions warrant severe disciplinary action, may be dismissed, as deemed appropriate by the Highway District Commissioners upon recommendation and good cause shown for such action by the Director of Highways and must then notify the employee, in writing, of basis for the action and the action taken of the employee's rights to seek a formal hearing before the Commission as an appeal the action of dismissal.

8.9.7 Grievances: Any employee of the Highway District whose employment or status with the Highway District is adversely affected by the imposition of disciplinary action, or by the interpretation or imposition of Highway District policy [not including operation protocols] and/or a violation of District Policy by another employee [includes officers], may grieve the action or interpretation in accordance with the following [all references herein this Section to chain of command]:

8.9.7.1 A grievance shall be prepared by the employee, and it shall state the occurrence or action which is the subject of the grievance, the date it occurred, the reason for the grievance, and what action the employee seeks to have taken. The grievance must be dated and signed; then

8.9.7.2 The grievance shall be filed with the grieving employee's immediate supervisor, who shall provide a copy to the person who is the subject of the grievance [if there is a claim against another employee] and a copy retained by the grieving employee with the original filed with the supervisor in the chain of command; then

8.9.7.3 The grievance shall be reviewed by those whose actions are the subject of the grievance, and they shall respond as to their position regarding the same. The Supervisor shall then determine if the parties to the grievance can resolve the grievance. If the Supervisor determines that the grievance cannot be resolved, it shall be so certified in writing, and the grievance shall then be filed with the next in the chain of command; then

- 8.9.7.4 The next person in the chain of command shall meet with the grieving employee and others involved in the grievance to determine if the grievance can be resolved. If the next person in the chain of command determines that the grievance cannot be resolved, it shall be so certified in writing, and the grievance shall then be filed with the next person in the chain of command, and the process shall then be repeated until it reaches the Director of Highways; then
- 8.9.7.5 If the Director of Highways determines that the grievance cannot be resolved, it shall be so certified and filed in writing, together with the record of the grievance and proceedings, with the Secretary to the Commissioners; then
- 8.9.7.6 In matters involving a dismissal, suspension, or demotion, grievances will be considered and shall be requests for a formal hearing before the commission; then
- 8.9.7.7 In other matters not involving a dismissal, suspension, or demotion, grievances will be considered and shall be requests for an informal hearing before the commission.

8.9.8 Informal hearings: The informal hearing process shall be conducted as follows:

- 8.9.8.1 The Chairman or other commissioners as determined by the Commissioners shall serve as a moderator of the informal hearing; and
- 8.9.8.2 Notice of the informal hearing shall be provided to affected parties five (5) business days before the hearing unless the time period is waived by all affected parties; and
- 8.9.8.3 All affected parties may be present and be represented by legal council; and
- 8.9.8.4 The matter will be conducted in executive session unless the matter is not the legal subject of an executive session or all affected parties waive executive session; and
- 8.9.8.5 The grieving party shall present relevant evidence to support their position first and then each affected party shall then be able in ordered determined by the commissioners to present relevant evidence to support their position; and
- 8.9.8.6 The commission may recess or continue the informal hearing from time to time and may conduct an investigation; and
- 8.9.8.7 Upon the conclusion of the presentation of evidence, the Commission shall then make a determination of the grievance and issue a written statement, order or other appropriate action in accordance with their decision on the matter, within ten (28) business days of the conclusion of the presentation of evidence, and shall take the action in open meeting and provide a copy of the action to the affected parties, with the original retained in the official records of the district in

the appropriate file.

8.9.9 Formal hearings: The formal hearing process shall be conducted as follows:

- 8.9.9.1** The Chairman or other commissioners as determined by the Commissioners shall serve as a moderator of the formal hearing; and
- 8.9.9.2** Notice of the formal hearing shall be provided to affected parties five (5) business days before the hearing unless the time period is waived by all affected parties; and
- 8.9.9.3** All affected parties may be present and be represented by legal council; and
- 8.9.9.4** The matter will be conducted in executive session unless all affected parties waive executive session; and
- 8.9.9.5** The Director of Highways shall present relevant evidence to support the recommended action of dismissal/ suspension/ demotion first; then the grieving party shall present his/her relevant evidence. Each participant may make opening and closing statements and shall be given an opportunity to cross examine witnesses, and the commissioners may examine witnesses; and
- 8.9.9.6** The commission may recess or continue the formal hearing from time to time; and
- 8.9.9.7** Upon the conclusion of the presentation of evidence, the Commission shall then make a determination of the grievance and issue a written statement, order, or other appropriate action in accordance with its decision on the matter within ten (28) business days of the conclusion of the presentation of evidence and shall take the action in open meeting and provide a copy of the action to the affected parties, with the original retained in the official records of the district in the appropriate file.

8.9.10 No employee will be discriminated against in any way for good faith process of a grievance.

CHAPTER 10 PERSONNEL COMPENSATION, BENEFITS, ATTENDANCE & LEAVE

*[Amended by Resolution 2014-11, Approved November 6, 2014]
[Added 8.10.4.1, 8.10.11.8 & 8.10.12.12 and amended 8.10.11.2 & 8.10.11.6 by Resolution 2017-01,
Approved January 12, 2017]*

8.10.1 Payroll

- 8.10.1.1** Payday shall be the first Thursday after the end of the bi-weekly pay period.
- 8.10.1.2** Paychecks shall be direct deposited into the employee's bank account unless other arrangements are made and approved by the Director of Highways.

8.10.1.3 W-4 form changes, insurance changes, deferred compensation changes and name and address changes will be handled by the District Secretary. Any changes an employee wishes to make in the mentioned deductions must be submitted to the District Secretary by Monday prior to the beginning of a pay period.

8.10.2 Salary Increases: Salary and/or hourly increases for Highway District positions are determined by separate action of the Board of Commissioners.

8.10.3 Overtime Pay

8.10.3.1 Hourly employees will earn time and one-half for hours worked in excess of forty (40) hours per week.

8.10.3.2 For overtime purposes, a work day is defined as a 24-hour period extending from 8:00 a.m. to 7:59 a.m.

8.10.4 Compensatory Time: It is the policy of the Highway District that hourly employees who work over the regular hours paid in each seven-day work period will have the option to accrue Compensatory Time. Compensatory Time in excess of forty (40) hours per week, or in excess of the work period interval established pursuant to 29 U.S.C. §207(k), shall be computed at one and a half (1½) hours for each additional hour worked. The Board of Commissioners has set a maximum Compensatory Time accumulation at any given time of forty (40) hours per employee per fiscal year. Any Compensatory Time over forty (40) shall be paid in the next pay period, unless approved by the Board of Commissioners. For overtime purposes, a work day is defined as a twenty-four (24)-hour period extending from midnight to midnight the following day.

8.10.4.1 Upon separation from employment, unused and unpaid Compensatory Time will be paid in a lump-sum payment at the then-current hourly or daily rate.

8.10.5 Holiday Pay

8.10.5.1 If a holiday falls on Saturday or Sunday; Friday or Monday respectively, is observed as a paid holiday.

8.10.5.2 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.

8.10.5.3 Employees will be paid for holidays if they work the day before and the day after the holiday or are on approved leave for those two days.

8.10.5.4 When a holiday falls during a work week, the eight-hour holiday is to be included in computing the forty-hour ceiling for overtime computation. An example:

Four non-holiday days	32 hours
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One holiday day (pay when not present) 8 hours
Total hours for overtime computation 40 hours
Any time above this is considered overtime.

8.10.6 Call Out Pay

8.10.6.1 When called out due to an emergency or after hours call back work, employees will be paid from the time of notification if they arrive at the designated work site within forty (40) minutes. If arrival time is later, wages will be paid from the time the employee arrives at the work site. There is a two (2) hour minimum for every call out.

8.10.7 Pager/Sign Phone Pay: A minimum of two (2) hours of Pager/Sign Phone Pay will be acquired for each call that requires the employee to take action by making repairs. The District will pay the called out employee from the time the call is received to the time the employee returns home or to the place where he/she was when the call came in. A time card is to be filled out on the work day [or on Monday if the call took place on the weekend] following the call. The employee may choose to accept Pager/Sign Phone Pay or Compensatory Time for the hours that the employee is assigned the Pager/Sign Phone and must sign an approved form indicating the choice of Compensatory Time or Pager/Sign Phone Pay. If the call results in overtime for the employee, the employee may claim Overtime Pay. Employees are cautioned against logging unnecessary overtime, as abuse of overtime will result in disciplinary action.

8.10.7.1 Stand-By Pay: Employees required to be on call for Pager/Sign Phone, emergency, or Winter Stand-By are eligible for Stand-By Pay. Stand-by pay will be paid regardless of whether or not the employee is called out.

8.10.7.1.1 Stand-by pay for Pager/Sign Phone will be paid at the rate of one hour per non-work day or Holiday and one half (1/2) hour per work day that the employee is assigned to monitor the pager/sign phone. The employee's time card shall include these stand-by hours. Stand-by pay for winter Stand-by will be paid at the rate of one hour per non-work day or Holiday and one half (1/2) hour per work day that the employee is scheduled for Winter Stand-By. Winter Stand-by pay will accumulate over the course of each year's winter stand-by schedule and will be paid at the end of the schedule to the employees, according to the approved stand-by hours accumulated by each employee. If an employee fails to respond to a call out request by Foreman or Director, the employee shall lose all stand-by pay for that scheduled week.

8.10.8 Hours of Work

8.10.8.1 The normal winter [November through March] work week is Monday through Friday, and a normal summer [April through October] work week is Monday through Thursday. Work hours are:

Winter: 7:30 a.m. to Noon; 12:30 p.m. to 4 p.m.;

Summer: 6:30 a.m. to Noon; 12:30 p.m. to 5 p.m.

The nature of our work frequently requires adjustments to this schedule to meet emergencies or other operational requirements as determined by the Director of Highways. Accepting these adjustments is a condition of employment.

- 8.10.8.2** All employees are allowed two fifteen minute rest periods or work breaks each day. Crews may break at a work site.

8.10.9 Fitness for Work /Attendance

8.10.9.1 Fit for Work Policy: No employee shall report to work or remain on the work site if they cannot perform the job or task under the working conditions in the exercise of reasonable care due to any condition whether caused by personal factors such as psychological or psychiatric or family issues or physical factors such as fatigue, stress, illness, injury or by the consumption of drugs or alcoholic beverages or other intoxicating substances. An employee who attends work in an unfit manner is operating outside Highway District policy and may be subject to immediate relief from duty, counseling and / or disciplinary action, depending on the degree of awareness and the severity of the risk to safety.

8.10.9.2 Any employee unable to work due to sickness, injury or other reasons must call their supervisor prior to the start of the work day in order to receive sick leave. Failure to do so is considered an unauthorized absence and will be without pay. If annual leave is to be used for time loss due to illness or injury the Employee must contact the office. Use of annual leave for time loss due to illness is not retroactive.

8.10.9.3 Employees who arrive after the start of their shift may be assigned a half-hour of leave without pay for any portion of a half-hour lost prior to arriving at that day's work site.

8.10.10 Holidays

January 1 st	New Year' Day
Third Monday in January	Martin Luther King's Day
Third Monday in February	President's Day
Last Monday in May	Memorial Day
July 4 th	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11 th	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25 th	Christmas Day

8.10.11 Annual Leave

8.10.11.1 The Employee earned annual leave accrues at the following rates per pay period

during continuous employment. If employment is interrupted, leave accrual commences with each new hire date.

- 8.10.11.1.1** Employees shall commence accruing Annual Leave at the rate of four and one half [4.5] hours per period, which is equal to one hundred seventeen [117] hours per year through the end of the third (3rd) year of employment. However, a Probationary Employee may not use these leave accrues until the employee has completed the probationary period, unless approved by the Director of Highways; and
 - 8.10.11.1.2** Commencing on the first day of the fourth (4th) year of employment, leave accrues at the rate of five and one quarter (5.25) hours per pay period, which is equal to one hundred thirty-six and one half (136.5) hours per year through the end of the seventh (7th) year of employment; and
 - 8.10.11.1.3** Commencing on the first day of the eighth (8th) year of employment and thereafter, leave accrues at the rate of six and one quarter (6.25) hours per pay period, which is equal to one hundred sixty two and one half (162.5) hours per year.
 - 8.10.11.1.4** The accrual of annual leave is suspended for any period the employee is taking unpaid Family Medical Leave or is unable to work by reason of a worker's compensation injury or is unable to work by reason of an illness or injury and is taking annual leave after using up the Employees accrued sick leave.
- 8.10.11.2** During each calendar year, the maximum accumulation of unused annual leave is 240 hours [30 work days] and any unused annual leave which exceeds the maximum accumulation allowed shall on December 31st of each year be forfeited, unless the Board of Commissioners has granted a carryover of the annual leave based upon extraordinary circumstances of the employee's district employment or upon circumstance which have developed at the request of the Director or the Board of Commissioners.
- 8.10.11.3** Compensatory time that is earned must be taken before any annual leave.
- 8.10.11.4** If a seasonal employee is transferred into an Employee position, he/she will be credited with leave from the start of his/her current continuous service.
- 8.10.11.5** Annual leave can only be taken with the approval of the supervisor. The approval of annual leave is subject to the schedule of work and Employee's chances of being allowed to take time for the time they seek will be maximized if an Employee gives their supervisor as much advance notice as possible. Supervisors have the right to deny or to reschedule leave to maintain an

adequate work force for their operation, and to require a specific period of advance notice to enable them to schedule their work.

- 8.10.11.6** The use of annual leave is not allowed after an employee has worked their regularly scheduled shift during any given work day.
- 8.10.11.7** In circumstances of a continued absence from work due to an injury or illness which extends beyond the Employees sick leave, the Employee may then take his/her accrued annual leave.
- 8.10.11.8** Upon separation from employment, unused accumulated Annual Leave, up to the maximum allowed accrual, will be paid in a lump-sum payment at the then-current hourly or daily rate.

8.10.12 Sick Leave

- 8.10.12.1** Employees and Probationary Employees earn sick leave as follows: Four (4) hours per pay period with a total of 1440 hours accumulation. Sick leave accumulation will cease once the maximum rate is met.
 - 8.10.12.1.1** The accrual of sick leave is suspended for any period the employee is taking unpaid Family Medical Leave or is unable to work by reason of a worker's compensation injury or is unable to work by reason of an illness or injury and is taking annual leave after using up the Employees accrued sick leave.
- 8.10.12.2** Employees hired during the first fifteen days of a month will accrue sick leave for that month. Those hired after the fifteenth day will not accrue sick leave for that month.
- 8.10.12.3** Employees whose illness or injury is such that it will extend past their maximum accumulated sick leave may be granted additional benefits by the District Commission. In such a case, the Commission will consider the nature of the disability, the employee's longevity, work record and other such factors as it deems pertinent.
- 8.10.12.4** Leave is credited at the end of each pay period and will not be granted prior to the time it is credited.
- 8.10.12.5** If a Seasonal and/or a Probationary Term employee is transferred into a permanent position, he/she will be credited with sick leave from the start of his/her temporary employment.
- 8.10.12.6** Sick leave may be taken for:
 - 8.10.12.6.1** The employee's personal illness or injury; or

- 8.10.12.6.2** The illness, injury or scheduled medical or dental appointments of a member of the employee's immediate family and which requires the employee's presence. Medical or dental appointments which exceed four (4) hours of sick leave require authorization of the Director. Immediate family is limited to the employee's spouse, child, mother, father, grandmother, grandfather, sister, brother and grandchild;
- 8.10.12.6.3** The birth of the employee's child, and no more than two (2) days of leave may be used for childbirth.
- 8.10.12.7** If a holiday occurs during the time an Employee is on sick leave, he/she will not be charged days of sick leave. An Employee who becomes sick while on annual leave cannot charge the day to sick leave.
- 8.10.12.8** An Employee who has suffered illness or injury because of a work incident will be allowed the use of sick leave for two days of the five day waiting period required under the rules of Workers' Compensation Insurance. During the period an employee is receiving Workers' Compensation benefits, sick leave will be used at the rate of ¼ day per work day. Should the illness or accident not exceed the five day waiting period and Workers' Compensation benefits not be paid, use of sick leave will be allowed for full coverage during the period of absence.
- 8.10.12.9** An Employee unable to work because of illness or injury must call in before the start of every work day in order to be eligible for sick leave. Employees on extended leave authorized by a licensed physician must call in the first day of illness but not each day of the specified period. An employee who does not have sufficient sick leave to extend the length of his/her illness and who wants annual leave used for this purpose must contact the District Secretary and request that annual leave be used for time off for illness. Use of annual leave for illness is not retroactive and cannot be used after twenty-one (21) calendar days of time loss due to injury or illness.
- 8.10.12.10** The Director of Highways may require a doctor's certificate prior to authorizing payment for sick leave. A doctor's release may be required at any time but must be supplied after a serious illness or injury before an employee may return to work.
- 8.10.12.11** Upon recommendation of the Supervisor and with the approval of the Director of Highways, the use and accumulation of sick leave may be denied individuals who have demonstrated an abuse of the sick leave privilege. Such abuse may further be the basis of disciplinary action.
- 8.10.12.12** Upon separation from employment, unused Sick Leave is then forfeited and not paid.

8.10.13 Family and Medical Leave of Absence

8.10.13.1 Introduction: A family and medical leave of absence is an approved absence available to eligible employees for up to 12 weeks of unpaid leave during the 12-month period set forth in this policy. This leave may be taken under particular circumstances that are critical to the family's life. These leaves are granted by the Highway District in accordance with the Family and Medical Leave Act of 1993 (the "Act") and its regulations.

8.10.13.2 Coverage: This policy shall apply to all family and medical leaves of absences. If an employee is entitled to paid or unpaid leave under another Highway District benefit plan or policy, the employee may, at his or her option, use that paid or unpaid leave first. The use of paid or unpaid leaves of absence by the employee for an FMLA purpose shall decrease in part or whole the 12 work weeks or unpaid leave provided by the Act.

8.10.13.3 Definitions

8.10.13.3.1 Eligible Employee: An employee who has been employed for at least 12 months by the Highway District before the leave is requested; and for at least 1,250 hours of actual service by the Highway District during the previous 12-month period immediately before the leave commences.

8.10.13.3.2 Employment Benefits: All benefits provided or made available to employees by the Highway District, including any group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and retirement benefits as provided by the Highway District.

8.10.13.3.3 Health Care Provider: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person determined by the United States Department of Labor's Secretary to be capable of providing health care services.

8.10.13.3.4 Parent: The biological parent or an individual who stands in loco parentis.

8.10.13.3.5 Reduced Leave Schedule: A leave schedule that reduces the usual number of hours per work week, or hours per work day, of an employee.

8.10.13.3.6 Serious Health Condition: An illness, injury, impairment or physical or mental condition that consists of:

8.10.13.3.6.1 Inpatient care involving an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity which results in an inability to work or to perform other regular daily activities due to the serious health condition, its treatment, or recovery from it or any subsequent treatment in connection with this inpatient care; or

8.10.13.3.6.2 A serious health condition involving continuing treatment by a health care provider, involving one or more of the following:

a) A period of incapacity resulting in an inability to work or to perform other regular daily activities due to the serious health condition, its treatment, or recovery from it of more than three consecutive calendar days, and any subsequent treatment or period of incapacity related to the same condition, that also includes:

1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services under orders of or on referral by a health care provider; or

2) Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.

b) Any period of incapacity due to pregnancy or for prenatal care;

c) Any period of incapacity or treatment for this incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

2) Continues over an extended time period, including recurring episodes of a single underlying condition; and

3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

d) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or the terminal stages of a disease).

8.10.13.3.6.3 Any period of absence to receive multiple treatments, including any period of recovery therefrom, by a health care provider or by a provider of health care services under orders of or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis), etc.

8.10.13.3.7 Son or Daughter: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or eighteen years of age or older and incapable of self-care because of a mental or physical disability.

8.10.13.3.8 Spouse: A husband or wife.

8.10.13.3.9 Twelve-Month Period: The 12-month period that begins on October 1st and ends on September 30th of the succeeding year.

8.10.13.4 Permissible Leaves: An eligible employee shall be entitled to a total of 12 work weeks of unpaid leave during the 12-month period for one or more of the following:

8.10.13.4.1 Birth: The birth of a son or daughter of the employee and the care for this son or daughter.

8.10.13.4.2 Adoption Or Foster Care: The placement of a son or daughter with the employee for adoption or foster care.

8.10.13.4.3 Care: Care for the spouse, son, daughter or parent of the employee, if the spouse, son, daughter or parent has a serious health condition.

8.10.13.4.4 Serious Health Condition: The employee's own serious health condition that makes the employee unable to perform the functions of his or her position.

8.10.13.5 Leave Process

- 8.10.13.5.1** The employee shall make a reasonable effort to schedule the treatment to avoid disrupting the Highway District's operations, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse or parents of the employee. A 30-calendar-day notice before the date foreseeable leave is to begin shall be provided by the employee when practicable.
- 8.10.13.5.2** In using the unpaid leave of absence described in Section 8.10.13.4 (Permissible Leaves), the employee may elect to substitute accrued paid leave for FMLA leave, which use of paid leave shall decrease in part or whole the 12 work weeks of unpaid leave provided by the Act, if the leave is for birth, adoption or foster care, care, or serious health condition.
- 8.10.13.5.3** The Highway District shall designate an employee's use of paid leave as FMLA leave based on information from the employee.
- 8.10.13.5.4** If both spouses are employed by the Highway District as eligible employees, the aggregate number of work weeks of leave to which both are entitled is 12 and not 24, during any year, if the leave is for birth, adoption or foster care, or care.

8.10.13.6 Intermittent Leave or Reduced-Schedule Leave

- 8.10.13.6.1** No employee may take an intermittent leave or a reduced schedule leave under birth or adoption or foster care.
- 8.10.13.6.2** An eligible employee may take intermittent leave or reduced-schedule leave for care or serious health condition that is medically necessary and not foreseeable, subject to the following:
 - 8.10.13.6.2.1** If an eligible employee requests leave for care or serious health condition that is foreseeable based on planned medical treatment that is medically necessary, the Director of Highways may require that the employee transfer temporarily to an available alternative position for which the employee is qualified if the alternative position has equivalent pay and benefits; and better accommodate recurring periods of leave than the regular employment position.
 - 8.10.13.6.2.2** If an eligible employee employed requests leave for care or serious health condition that is foreseeable

based on planned medical treatment that is medically necessary and would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the Director of Highways may require that the employee elect either to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or to transfer temporarily to an available alternative position for which the employee is qualified if the alternative position has equivalent pay and benefits and better accommodates recurring period of leave than the regular employment position.

8.10.13.6.2.3 For any employee to request intermittent leave or reduced schedule leave for care, the written certification shall include a statement of the dates on which planned medical treatments are expected to be given; the duration of the treatment(s); the employee's intermittent leave or reduced-schedule leave is necessary for the care of the son, daughter, parent or spouse who has a serious health condition, or will assist in recovery; and the expected duration and schedule of the intermittent leave or reduced-leave schedule.

8.10.13.6.2.4 For any employee to request intermittent leave or reduced-schedule leave for serious health condition, the written certification shall include a statement of the dates on which planned medical treatments are expected to be given; the duration of the treatment(s); the medical necessity for the intermittent leave or reduced-schedule leave; and the expected duration and schedule of the intermittent leave or reduced-schedule leave.

8.10.13.6.3 Intermittent leave or reduced-schedule leave shall be taken in increments of one hour or longer.

8.10.13.7 Certification

8.10.13.7.1 A request under care and/or serious health condition shall be supported in a timely manner with a written certification issued by the appropriate health care provider.

8.10.13.7.2 The written certification shall provide all information identified in the Department of Labor's Medical Certification Form [form SH-

380] or in any revisions to or replacements of this form.

8.10.13.7.3 The Director of Highways of the Highway District may require, at the expense of the Highway District, that the eligible employee obtain the opinion of a second health care provider designated by the Highway District. If the second opinion differs from the first opinion, the Highway District may require at its expense a third opinion, which shall be considered final and binding on both parties.

8.10.13.7.4 The Highway District may require that the eligible employee obtain subsequent re-certifications on a reasonable basis.

8.10.13.7.5 The employee shall supply the Highway District with a certification from the health care provider stating the employee may resume work.

8.10.13.8 Benefits Protection

8.10.13.8.1 An employee taking leave under permissible leaves shall not lose any employment benefit accrued prior to the date on which the leave commence.

8.10.13.8.2 The Highway District shall maintain coverage under any group health plan [as defined in 26 USC § 5000(b)(1)] for the duration of the leave at the same level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

8.10.13.8.3 An employee returning from leave under permissible leaves shall be restored to the employee's original job or to an equivalent job with equivalent pay, benefits and other employment terms and conditions.

8.10.13.8.4 If the employee does not return from the leave, the Highway District may recover from the employee the premium that was paid for the group health plan during the unpaid leave, unless circumstances beyond the control of the employee prevent the return to work.

8.10.13.9 Conflict with act or regulations: In the event that any section or part of this policy is in conflict with the Act or its regulations, the Act or its regulations shall control in making the applicable determination.

8.10.14 Court or Jury Duty Leave: 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. Continuation of wages of an employee for such court or jury duty would require the payment for such duty to be endorsed over to the Highway District. (Alternately, the wage of the employee could be reduced by the amount of payment for such duty.)

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

8.10.15 Military Leave

- 8.10.15.1 National Guard or Reserve Leave.** Employees who are in the National Guard or Armed Forces Reserve may be granted up to fifteen (15) days of leave per year for military training. Seasonal Employees may receive leave without pay for the same purpose.

- 8.10.15.2** For this leave, Employees receive full pay minus their military base pay for such training. An Employee may take annual leave so he/she can receive full vacation pay, plus their military pay.

- 8.10.15.3** Employees who are Veterans will be accorded all rights provided under State and Federal Law.

8.10.16 Bereavement:

- 8.10.16.1** Up to three (3) days paid bereavement leave for the death of a member of the employee's immediate family. Immediate family is limited to the employee's spouse, child, mother, father, grandmother, grandfather, sister, brother, grandchild, father-in-law and mother-in-law, grandmother-in-law and grandfather-in-law and up to two (2) half days for non-immediate family member. Additional time for bereavement leave may be granted from accumulated vacation and in the event the employee has no accumulated vacation time, unpaid leave of absence for bereavement leave may be granted by the Director of Highways upon a showing of good cause by the employee for the bereavement leave.

8.10.17 Leave Without Pay

- 8.10.17.1** Supervisors may grant leave without pay for up to three days for Employees who do not have sufficient vacation or sick leave to cover an absence, in cases of unauthorized absences or as a disciplinary measure.

- 8.10.17.2** Extended leave without pay may be granted under special conditions with the recommendation of the Supervisor and approval of the Director of Highways.

- 8.10.17.3** Employees on leave without pay for a period of five days or more do not

accumulate annual or sick leave for the month. If the leave will be for an extended period of time, no benefits of any kind are paid, nor does the period count toward the length of service.

- 8.10.17.4** Leave without pay may not be authorized until accrued annual leave (or sick leave if the leave without pay is granted for illness or injury) has been expended except when leave without pay has been utilized as a disciplinary measure.
- 8.10.18 Benefits:** Employees are eligible for the Public Employee Retirement System of Idaho (PERSI) in accordance with the rules and regulation of the System as it applies to the District employees, medical and life insurance for the Employee and dependents, unemployment insurance, Workers' Compensation for work-related injuries, social security, sick and annual leave, longevity, and the deferred compensation program. A general outline of the benefits is given below. The complete provisions of each plan are contained in the policy statements issued by each carrier. Since the policy statements are complete in detail, final interpretations of any specific provision are governed by them. The provisions of each plan are subject to periodic change. To apply for or obtain more information on any benefit program, contact the Secretary.
- 8.10.19 Retirement System:** Both Permanent and Seasonal Employees must participate in the State Retirement System. Both the employer and Employee, through a payroll deduction, contribute to the System. After five (5) years participation in the system, an Employee has a vested interest, and may draw reduced benefits upon reaching age fifty-five (55). Full benefits may be drawn at age sixty-five (65). If an Employee leaves the District, he/she may withdraw the amount contributed. The Retirement System also provides an optional life and disability insurance that employees may elect to carry.
- 8.10.20 Medical Care Program:** The health care plan available to Highway District Employees is established by the Highway District Commissioners which provides a medical care plan available to all Employees and may include their dependents. The Highway District contributes the complete amount towards medical coverage for the Employee.
- 8.10.20.1** An Employee on leave without pay may self-pay the health insurance and health care premium due for a period of ninety (90) days to maintain coverage.
- 8.10.21 Worker's Compensation:** All employees are covered under the State Insurance Fund for job-related accidents. To establish eligibility for benefits, it is essential that accident reports be completed for every accident or injury.
- 8.10.21.1** [The following is informational only; the actual benefits are established and governed by Idaho State law codified at Chapter 4 of Title 72 Idaho Code] After five (5) days absence, Workers' Compensation pays for lost time at the rate of sixty-seven per cent (67.0%) of normal pay or the average state weekly wage, which is ever greater, for a period not to exceed fifty-two (52) weeks during a period of recovery, and thereafter the rate is based upon the average state weekly wage. Should the disability extend past two (2) weeks, benefits

will also be paid for the 5-day waiting period. The 5-day waiting period is waived if the employee is hospitalized.

8.10.21.2 The accrual of Annual Leave and Sick Leave is suspended for any period the employee is taking unpaid Family and Medical Leave of Absence or is unable to work by reason of a worker's compensation injury.

8.10.22 National Defense Authorization Act: On January 28, 2008, the FMLA was amended by the National Defense Authorization Act. This amendment provides an entitlement of up to twenty-six (26) weeks of unpaid leave during a single twelve-month period to an eligible employee who must care for a covered service member--a person who is a spouse, son, daughter, parent or next of kin of the employee and has a serious injury or illness incurred in the line of duty which renders that person unfit to perform his or her duties in the Armed Forces. The Highway District may require that the request for this type of leave be supported by certification that the service member being cared for by the employee has a serious health condition.

The National Defense Authorization Act also provides twelve (12) weeks of FMLA leave to an employee if his or her spouse, son, daughter or parent has been called to active duty with the Armed Forces. No serious medical condition is required for this type of leave. The Highway District may require that the request for this type of leave be supported by certification that the service member has actually been called to active duty. The Highway District employee shall provide prior notice when the need for this type of leave is foreseeable.

CHAPTER 11 SEPARATION AND TERMINATION

[Amended by Resolution No. 2013-14 passed November 7, 2013]

8.11.1 Layoff and Reinstatement: In the event that, in the judgment and discretion of the Board of Commissioners, workload, budget or other constraints require a reduction in or a reinstatement of the work force, the following process and criteria applies:

8.11.1.1 The Board of Commissioners will make a declaration, in resolution form, stating the facts for the need to either reduce the work force or reinstate the work force, as the case may be, including the number of members of the work force involved.

8.11.1.2 Layoff: The Director of Highways will administer this policy in the event of a reduction and layoff of work force by the Board of Commissioners as follows:

8.11.1.2.1 Seasonal Employees will be laid off prior to District Maintenance Workers;

8.11.1.2.2 District Maintenance Workers whose most recent performance evaluation was determined to be below standards will be laid off

first, starting with those having the least seniority.

8.11.1.2.3 All District Maintenance Workers whose most recent performance evaluation was determined to be at standard or above will be the next to be laid off, starting with those having the least seniority.

8.11.1.3 Reinstatement: Reinstatement of work force occurs only when the Board of Commissioners has made a declaration of reinstatement, as provided in section 8.11.1.1 and within one year of a declaration of reduction of work force, in which case the Director of Highways will administer this policy as follows:

8.11.1.3.1 Will issue and serve offers of reinstatement in the order of the seniority of the work force laid off, starting with those having the most seniority.

8.11.1.3.2 Will serve the offer of reinstatement at the last known address of the employee and which notice shall state that the offer is only open for two weeks from the date of the offer and that failure to timely accept a written offer of reinstatement will result in a forfeiture of the reinstatement.

8.11.1.3.3 A reinstated Employee's sick leave as accumulated at the time of the lay-off will be restored.

CHAPTER 12 EMPLOYEE ACTIVITIES AND COMMUNICATIONS

8.12.1 Outside Employment: While employed by the Highway District, an Employee must not allow any outside employment or activities to conflict with his/her obligations, duties and responsibilities as a Highway District Employee.

TITLE 9 BUDGET

CHAPTER 1 FISCAL YEAR

- 9.1.1** The Golden Gate Highway District Fiscal Year is prescribed by Idaho Code § 40-1330 to commence on October 1 of each year.

CHAPTER 2 BUDGET PREPARATION AND APPROVAL

[Resolution 2016-09: Added Section 2, Passed August 2, 2016]

- 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, a Commissioner, 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 papers 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)].

9.2.2 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 Golden Gate Highway District No. 3 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.

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 thousand dollars (\$100,000) 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 \$100,000 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 agencies, 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 Golden Gate Highway District No. 3, Canyon County, State of Idaho, establishes the following:

9.4.2 Fund Name: This Fund shall be known and administered as "GGHD 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 regards 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

[Added by Resolution 2013-05 passed April 4, 2013]

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 Process for Identification of and Authorization for Investment of Surplus or Idle Funds

9.5.6.1 The Board of Commissioners shall at least every six months determine and certify funds on deposit [not inclusive of invested funds] which are not needed for the payment of expenditures during the period being certified. A copy of the certification shall be served upon the Treasurer.

9.5.6.2 The Treasurer shall then make a recommendation for approval by the Board of Commissioners for the investment, as permitted by Idaho Code § 67-1210, of the funds certified by the Board as surplus and/or idle. The interest earned from invested funds shall be paid into the general fund.

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 Golden Gate Highway District No. 3, 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.
- 10.3.31 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]

10.3.32 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

[Amended 10.4.3.1 and added 10.4.8 by Resolution 2017-08, Passed on July 13, 2017]

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 Golden Gate Highway District No. 3 is subject to the provisions of Idaho Code § 67-2320 which provides that all political subdivisions of the State of Idaho [which includes Highway Districts] 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 Golden Gate Highway District No. 3.

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.

<i>Anticipated Fee</i>	<i>RFQ Method(s)</i>	<i>Minimum # Considered</i>	<i>Contract Approval</i>
\$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

[Amended 10.6.1 by Resolution 2017-08, Passed on July 13, 2017]

- 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 prequalifications 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

[Added 10.7.4 by Resolution 2016-11, Passed on November 17, 2016]
[Amended 10.7.4, added 10.7.5 by Resolution 2017-08, passed on July 13, 2017]

- 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 property is required to respond to a life-threatening situation or a situation which 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 the personal property, unless the 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.

10.7.3 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 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)]

10.7.5 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 an other 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 \$5,000.00 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 \$5,000.00 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 \$5,000.00 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 subdivisions with the requirements of I.C. §§ 67-2322- 67-2324.

CHAPTER 9 SURPLUS REAL PROPERTY

[Amended by Resolution 2016-10, Passed on November 17, 2016]

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

[Added by Resolution 2016-02, passed on 4/14/16]
[Amended by Resolution 2016-08, passed on 6/9/16]

10.10.1 At such time as the Board of Trustees 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 Golden Gate Highway District No. 3 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 or officer or Commissioner or agent of the Golden Gate Highway District No. 3 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

[Amended by Resolution No. 2012-09 passed October 4, 2012]

- 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

[Amended 13.1.2 by Resolution 2017-03, Passed 2/9/2017]

- 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* [2017 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 2035 Functional Classification Map:** The Board of Commissioners adopts the 2035 Functional Classification Map dated December 21, 2009 as adopted by the Community Planning Association of Southwest Idaho [COMPASS] for application to this Highway District.

CHAPTER 2
FEES

[Amended 13.2.1 & Fee Schedule by Resolution 2017-03, Passed 2/9/2017]

- 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
GOLDEN GATE HIGHWAY DISTRICT NO. 3**

Subdivision Fees¹

Improvement Drawing Review (Payable with Plan Submittal)	-\$200.00 plus \$6.00 per lot ²
Final Plat Review (Payable with Final Plat Submittal)	-\$300.00 plus \$6.00 per lot ²
Construction Phase (Payable at Preconstruction Meeting)	-\$600.00 plus \$40.00 per lot ²
Testing	- Actual cost

Application and Permit to Use Right-of-way³ (**Special Use Permits**)

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

Administrative Fee⁴

Lot Split (Administrative Land Division)	-\$50.00
Approach, Subdivision – 1 or 2 Residential Properties	-\$50.00
Approach, Non-Subdivision – 1 or 2 Residential Properties	-\$100.00
Approach, Commercial & 3 or more Residential	-\$150.00
Street Cut, Perpendicular to Roadway	-\$150.00
Street Cut, Parallel to Roadway ⁵	-\$700.00 plus \$0.50 per foot
Utilities ⁶	-\$50.00

Other	-\$75.00
Deposit ⁷ (Deposit Refundable upon satisfactory completion of work)	
Approach, Subdivision – 1 or 2 Residential Properties	-\$200.00
Approach, Non-Subdivision – 1 or 2 Residential Properties	-\$400.00
Approach, Commercial & 3 or more Residential	-\$2,000.00
Street Cut, Perpendicular to Roadway	-\$1,500.00
Street Cut, Parallel to Roadway ⁵	-\$15.00 per foot
Other	- Based on estimated construction, as determined by Highway District
Variance	
Highway District Standards	-\$550.00 plus any additional cost ⁸
Setback (Section or Quarter Section Line)	-\$150.00
Right-of-way Vacation/Abandonment/Validation	-\$1600.00 plus any additional cost ^{8,9}
Right-of-way Reclassification	-\$550.00 plus any additional cost ⁸
House Moving Permits	-\$ 5.00
Wide Load Permits	-\$ 5.00
Sign Installation Cost (Per Sign or Sign Post)¹⁰	-\$ 75.00
No Spray Zones	
Initial Application	-\$25.00
Renewal	-\$10.00
Highway Standards Manual	-\$10.00, plus tax, if applicable.
Maps (Color Plots)¹¹	-\$ 2.00 per square foot ¹²

Fee Schedule Notes:

¹ 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.

² Subdivision fees shall be based on buildable lots.

³ The Highway District reserves the option to increase this fee or deposit under special conditions.

⁴ 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.

⁵ 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.

⁶ Utilities include power, gas, telecommunications, and cable.

⁷ In lieu of deposit, major utility companies shall provide an annual Bond in the amount of \$7,500.00 to the Highway

District.

⁸ Any additional costs will be charged at the actual amount above those included in the fee.

⁹ Fee includes \$300.00 in legal costs and \$300.00 for public hearing legal advertisement.

¹⁰ 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.

¹¹ Plotting shall be for standard maps produced for Highway District purposes.

¹² Square footage of map shall be based on the area of the paper rounded to the nearest square foot

CHAPTER 3

APPLICATIONS, PERMITS, FORMS & PROCESS

[Subsection 4, Chapter 3 Amended by Resolution 2014-03, Approved June 5, 2014]

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 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

*[Amended with the Addition of Subsection 5, Chapter 4, Resolution 2014-12, Approved November 6th, 2014]
[Amended Subsection 5, Section 2, Chapter 4, Resolution 2015-02, Approved April 2, 2015]*

- 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

[Amended Subsection 2, Chapter 5, Resolution 2015-01, Approved April 2, 2015]

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 unplatted land [Canyon County Code § 07-10-25 (5) (A)];
- 13.5.1.2 Administrative land division of platted or unplatted land which is not viable farm land [Canyon County Code § 07-10-25 (5) (B)];
- 13.5.1.3 Administrative land divisions of platted or unplatted land for relocation of building permits between contiguous parcels [Canyon County Code § 07-10-25 (5) (C)] Administrative land division of platted or unplatted 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 Golden Gate Highway District No. 3 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 Director of Highways 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

[Added by Resolution 2014- 09, Approved August 7, 2014]

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 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 a 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 Director of Highways submits a written reply within ten (10) days from the date of notification to development services. If additional time is needed, the notification should state that the application has been received and that in order for the Highway District to complete its review an additional [] days are required. 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 draft comment report should then be finalized by the Director of Highways and submitted to the Highway District Commissioners for their approval. 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 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 an additional [] days are 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 a 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

[Amended by Resolution No. 2013-07 passed June 6, 2013]

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 GOLDEN GATE HIGHWAY DISTRICT FOR INFORMATION AT 482-6267”

15.2.2.2 Open Public Right-of-Way shall 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 filling 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 Wilder and/or City of Greenleaf 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 Golden Gate Highway District No. 3 and established its current boundaries as of January 1, 1981.

CHAPTER 5

PUBLIC RIGHTS-OF-WAY WIDTH POLICY

[Amended by Resolution No. 2013-08 passed June 6, 2013]

[Amended by Resolution NO. 2016-04, passed on April 14, 2016]

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 police, 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 Golden Gate Highway District No. 3 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 Golden Gate Highway District No. 3 can be retrieved at 500 Golden Gate Ave., Wilder, Idaho between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday.

15.7.4 The Golden Gate Highway District No. 3 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 Golden Gate Highway District No. 3 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 Golden Gate Highway District No. 3, 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 Golden Gate Highway District No. 3 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 April 13, 2006 and passed as Resolution No. 2006-04.

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 Golden Gate Highway District No. 3 Public Rights-of-Way: *[Amended by Resolution 2013-13 passed 10/3/13]*

- 16.1.2.1** There is currently adopted a Map which has the following designation: “Official Map of the Golden Gate Highway District No. 3 Highway System Resolution No. 2002-12 dated May 9, 2002”; 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 GOLDEN GATE HIGHWAY DISTRICT NO. 3
PUBLISHED MAP [I.C. 40-202(6)]**

<p>General Statement: Golden Gate Highway District No.3 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.</p>
<p>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].</p>
<p>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 Greenleaf and Wilder, 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 Golden Gate Highway District No.3 (I.C. §§ 40-1323 and 40-1333). Golden Gate Highway District</p>

No. 3 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).	
PUBLIC RIGHT-OF-WAY MAP DESIGNATION	
<i>Jurisdiction/Classification</i>	<i>Map Designation</i>
Public Highways (Public Highway Right-of-Way) under the Jurisdiction of Golden Gate Highway District No.3.	
Open Public Right-of-Way under the Jurisdiction of Golden Gate Highway District No. 3.	
Closed Public Right-of-Way under the Jurisdiction of Golden Gate Highway District No.3.	
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 Golden Gate Highway District No. 3. The original Official Highway District Map adopted by Resolution 2002-12 and dated May 9, 2002, is on file at the Offices of Golden Gate Highway District No. 3.

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 mean time 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 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 Golden Gate Highway District 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 a reasonable period 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 Golden Gate Highway District No. 3:

- 18.1.1.1** The posted speed limit on highways under the jurisdiction of Golden Gate Highway District No. 3 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; except for:
- 18.1.1.2** Homedale Road and Red Top Road as it lies west of U.S. Highway 95, which shall have a maximum posted speed limit of 55 mph; and
- 18.1.1.3** 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.
See **Traffic Control Device/Regulation Order** [Forms Book]

CHAPTER 3
GUIDE SIGNS POLICY

[Amended 18.3.1.3 by Resolution 2017-03, Passed 2/9/2017]

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 Golden Gate Highway District No. 3, 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 [2017 Edition]* or revisions thereto adopted by the Golden Gate Highway District No. 3 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 Golden Gate Highway District No.3:

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;

TITLE 19
OTHER OPERATIONAL POLICY
CHAPTER 1
SNOW REMOVAL AND SANDING

- 19.1.1** It is the general policy for the Golden Gate Highway Road Department to maintain the roads on the Golden Gate Highway road 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 Golden Gate Highway District, 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 Golden Gate Highway District shall be as follows:
- 19.1.3.1 First Priority:** Heaviest traffic routes and danger spots such as steep grades, sharp curves with significant traffic levels, busy intersections, well traveled bridges, arterials, and approaches traveled by school buses and most primary routes. These roads are identified in GREEN on the Golden Gate Highway snow removal map.
 - 19.1.3.2 Second Priority:** Medium to heavily traveled sections of highway on primary and collector systems, including routes traveled by commuters. These roads are identified in BLUE on the snow removal map.
 - 19.1.3.3 Third Priority:** More lightly traveled sections of highway including collector and local roads and roads serving winter recreation areas. These roads are identified in YELLOW on the snow removal map.
 - 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 Road Department 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** Sanding is not to be performed until the roadway has been plowed. Use of sand will be limited to steep roadway grades, at intersections,

on overhead structures, and in other areas determined by the Department to be hazardous. It is not standard policy to sand straight stretches of highway because of a snow floor. Due to budgetary and environmental considerations, field personnel are directed not to use road salt in the course of regular winter road maintenance.

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 the written 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 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.

22.3.2 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]:

Issuance of Delinquency Certificate	\$ 0.25	Included in delinquency amount
Issuance of Deed	\$ 1.00	Collected from person deed is issued to, When deed is issued to Highway District, it is included in the delinquency amount.
Issuance of Notice to Lien Holder	\$ 0.50	Collected from the lien holder
Issuance of Notice of Expiration of Perfection Period	\$ 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

[Added by Resolution 2016-03, passed on 4/14/16]

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.