STATE OF NEBRASKA

Minutes of the Board of Public Roads Classifications and Standards

May 20, 2016 Nebraska Department of Roads' Central Headquarters Building Auditorium, Room 139A 1500 Highway 2, Lincoln, Nebraska

Meeting and Hearings Notices:

- Statewide news release emailed and posted on Nebraska Department of Roads' website May 13, 2016.
- Event posted on State of Nebraska website (Public Meeting Calendar) May 13, 2016.
- Tentative agenda emailed to each board member and interested persons May 13, 2016.
- Meeting agenda kept current and on public display in Liaison Services Section, Room 123B, Nebraska Department of Roads, 1400 Highway 2, Lincoln, Nebraska.
- Meeting agenda posted in the main entrance of the Nebraska Department of Roads' 1500 Highway 2 building on May 20, 2016.
- Relaxation of Standards hearing notice emailed to NDOR on May 13, 2016.

Board members present:

Roger Figard, Lincoln, Chairman James A. Litchfield, Wakefield, Vice Chairman LeRoy G. Gerrard, Stromsburg John F. Krager, Omaha Lisa Kramer, Kennard Mick Syslo, Lincoln Darold E. Tagge, Holdrege David Wacker, Hastings Timothy W. Weander, Omaha Edward R. Wootton, Sr., Bellevue

Board members absent:

Barbara Keegan, Alliance

Staff members present:

LeMoyne D. Schulz, Board Secretary & Highway Local Liaison Coordinator, NDOR, Lincoln Barbara Hasterlo, Office Associate, Liaison Services Sect., Nebraska LTAP/NDOR, Lincoln Dennis R. Smith, Program Coordinator, Liaison Services Sect., Nebraska LTAP/NDOR, Lincoln.

Others in attendance:

Andrew Cunningham, Government Affairs Office, NDOR, Lincoln Erich Strack, Government Affairs Office, Legislative Coordinator, NDOR, Lincoln Chris Lutz, Roadway Design Division, NDOR, Lincoln Mike Owen, Roadway Design Division, NDOR, Lincoln Mark Mainelli, Mainelli-Wagner Associates, Lincoln, representing Otoe County Fred A. Meyer, Village Board Member, Village of Plymouth William E. (Bill) Cook, Nebraska Concrete Paving Association, Lincoln Jim Wilkinson, Consultant David Wacker, Jr., Hastings

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Chairman Figard <u>called the meeting to order</u> at 9:00 a.m. The meeting was open to the public.

* * * * *

Chairman Figard made the following announcements in compliance with the <u>Open Meetings</u> <u>Act</u>.

- A copy of the Open Meetings Act is available for inspection and is posted by the entrance to this room.
- The Meeting Agenda and a copy of all materials that were provided to the Board Members, prior to the start of this meeting, are available on the table by the entrance to this room.
- A sign in sheet is available. Visitors are not required to sign, but are encouraged to do so.

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Mr. Schulz <u>noted the following changes from the originally published agenda</u>: Additional 2015 - 2016 Annual Report received - Crab Orchard *(reducing the delinquent municipalities to three (3))*. Additional: 2016 One- and Six-Year Plans received *(reducing delinquent municipalities to five (5) and delinquent counties to one (1))*.

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Mr. Gerrard moved to <u>approve the March 25, 2016 meeting minutes</u>. Mr. Krager seconded the motion. Members Gerrard, Krager, Kramer, Litchfield Syslo, Tagge, Wacker, Weander and Figard voted YES. Member Wootton Abstained. Member Keegan was absent. The motion carried.

* * * * *

The board considered the <u>status of the submission of the 2015 – 2016 Standardized System of</u> <u>Annual Reports</u>.

- 1. A total of 93 County, 526 Municipal and the Nebraska Department of Roads' Reports have been received and are recommended for acceptance.
- 2. Three (3) Municipal SSAR reports are delinquent: Elk Creek, Riverton and Rulo. The reports have been delinquent since January 1, 2016. Highway Allocation Funds are under suspension beginning with the April distribution.
- 3. Four (4) Municipalities: Crab Orchard, Crofton, Deweese and Harvard, which were cited

to the State Treasurer for suspension of its Highway Allocation Funds, have submitted Reports. The State Treasurer should be advised to cease the suspension and restore the suspended funds.

Mr. Wootton moved to accept the Status Report of the Standardized System of Annual Reports as presented. Mr. Tagge seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried.

Mr. Wacker moved to <u>lift the suspended Highway Allocation Funds</u> to Crab Orchard, Crofton, Deweese and Harvard. Ms. Kramer seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried. *(Notificaton letters were sent June 2, 2016. See Attachment* #1.)

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The board considered the status of the submission of the 2016 One- and Six-Year Plans.

- 1. A total of 88 County and 524 Municipal One- and Six-Year Plans have been received and are recommended for acceptance.
- 2. One (1) County Plan is delinquent: Madison. The Plan has been delinquent since March 2, 2016.
- 3. Four (4) Municipal Plans are delinquent: Bayard, Crab Orchard, Elk Creek and Rulo. The Plans have been delinquent since March 2, 2016.
- 4. One (1) Municipal Plan is delinquent and being held for completion of additional information: Omaha (*Forms 8,9 and 11 filed in OnBase*). The Plan has been delinquent since March 2, 2016.

Mr. Wootton moved to accept the Status Report of the One- and Six-Year Plans as presented. Ms. Kramer seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried.

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The Board considered the <u>Village of Plymouth One- and Six-Year Plan revisions</u> (*3*) adding Project Nos. M-498(1-02), M-498(1-03) and M-498(1-04) to the 2016 One-Year Plan. A signed copy of Resolution no. 2016-2, adopted April 11, 2016, was received on April 14, 2016. Mr. Meyer presented the request.

The projects consist of asphalt surfacing on existing asphalt surfaced Local and Other Arterial streets. The total estimated cost is \$599,000 (Other funding- bonds).

Mr. Tagge moved to accept the Village of Plymouth One- and Six-Year Plan revisions as presented. Mr. Wootton seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried.

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The Board considered the <u>Holt County One- and Six-Year Plan revision</u> adding Project No. C-45(514) to the 2016 One-Year Plan. A signed copy of Resolution no. 2016-7, adopted April 1, 2016, was received on April 6, 2016. No one was present to present the request.

The project consist of grading and aggregate surfacing on a Local road. The total estimated cost is \$15,000 (\$5,000 County funding and \$10,000 Other funding).

Mr. Wootton moved to accept the Holt County One- and Six-Year Plan revision as presented. Mr. Litchfield seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried.

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The Board considered the <u>Otoe County One- and Six-Year Plan revisions</u> (2) adding Project Nos. C-66(511) and C-66(578) to the 2016 One-Year Plan. A signed copy of Resolution no. 4-26-16-11, adopted April 26, 2016, was received on May 2, 2016. Mr. Mainelli presented the request.

The projects consist of mill and armor coat surfacing on existing asphalt surfaced Local and Other Arterial roads. Mr. Mainelli advised the projects are actually "mill and overlay" rather than "mill and armor coat" as noted on NBCS Form 10. The total estimated cost is \$660,000.

Mr. Wootton moved to 1) accept the Otoe County One- and Six-Year Plan revisions, 2) contingent upon the County submitting an amended NBCS Form 10 correcting the "Surfacing" type and "Construction Features" to "mill and overlay." Mr. Weander seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried. *(A corrected NBCS Form 10 was received on May 24, 2016.)*

* * * * *

At 9:20 a.m., the Board heard the <u>NDOR request for a Relaxation of Minimum Design</u> <u>Standards</u> for Project No. 136-7(125), Auburn West, C.N. 13223. *(The hearing was held in an informal format, NDOR having declined the option of a formal hearing.)* The request is for a Relaxation of the 428 NAC 2-001.02Q Minimum Design Standards – Resurfacing, Restoration and Rehabilitation (3R) Projects on Rural State Highways, for a decrease in Fixed Obstacle Clearance at reference post (RP) 222+07 and ending at R.P. 228.88 along US Highway 136, as specified in its May 2, 2016 letter. Mr. Lutz presented the request. No one appeared in opposition. The hearing concluded at 9:32 a.m. The Board then considered the request.

Mr. Wootton moved to grant the NDOR Relaxation request in whole, in view of the peculiar, special or unique local situation presented, whereby the application of a specific Minimum Design Standard would work a special hardship. Mr. Weander seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried with the requisite majority vote.

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<u>Update on revision of 428 NAC 2 – Procedures for Standards Regulations: Rules and</u> <u>Regulations</u> approved by Governor Ricketts on May 12, 2016 and effective May 17, 2016.

* * * * *

Consideration of interim guidelines for Relaxation of Standards Requests.

Mr. Wootton moved to <u>approve the interium guidelines for Relaxations, under 428 NAC 2 Rules</u> <u>and Regulations</u>. Mr. Tagge seconded the motion. Members Gerrard, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Keegan was absent. The motion carried. *(See Attachment # 2)*

* * * * *

<u>Update on revision of 428 NAC 3, Annual Reporting of One- and Six-Year Plans and 428 NAC 4, Standardized System of Annual Reporting Regulations</u>. Mr. Wilkinson gave a report on the meetings involving the State Auditor; the NDOR Legal Staff; and the NDOR Controller's office in updating the 428 NAC 3, Annual Reporting of One- and Six-Year Plans and 428 NAC 4, Standardized System of Annual Reporting Regulations. Mr. Wilkinson reported that the process is slow and the Committee (appointed at the March 25, 2016 NBCS meeting) will meet today to discuss further.

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Other business:

- Mr. Strack provided a state and federal Legislative Report.
- <u>2016 Work Plan</u>. The Board will continue to update the Standardized System of Annual Reporting and the One- and Six-Year Plan Regulations and forms through the end of the year.

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Mr. Schulz reported the following correspondence and general information.

• Board Members received a copy of the Board of Examiners for County Highway and City Street Superintendents April 1, 2016 meeting minutes.

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There were no <u>Comments from the Audience</u>.

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The <u>next regular meeting</u> will be held June 17, 2016 at 9:00 a.m., in the Nebraska Department of Roads' Central Headquarters Building Auditorium, Room 139A, 1500 Highway 2, Lincoln, Nebraska.

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There being no further agenda items, Chairman Figard <u>adjourned</u> the meeting at 10:28 a.m.

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LeMoyne D. Schulz Secretary for the Board http://www.transportation.nebraska.gov/gov-aff/gov-aff-main.html



Pete Ricketts Governor

STATE OF NEBRASKA

BOARD OF PUBLIC ROADS CLASSIFICATIONS AND STANDARDS 1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759

Phone (402) 479-4436 • FAX (402) 479-3525 • roads.nebraska.gov

June 2, 2016

Mr. Don Stenberg Nebraska State Treasurer State Capitol Rm 2003 Lincoln NE 68509

Dear Mr. Stenberg:

The Board of Public Roads Classifications and Standards, at their regular meeting on May 20, 2016, voted to lift the suspension of Highway-User Revenue to the **Village of Crab Orchard**. The suspension was initiated by letter of this board dated March 31, 2016, pursuant to action taken at the March 25, 2016 meeting. By action of your office, funds were suspended beginning with the April 11, 2016 allocation. Crab Orchard's Standardized Annual Street Program Report for 2015-2016 was received May 23, 2016.

The penalty provision of 39-2119 Nebraska Revised Statutes provides that if any county or municipality fails to file such plan on or before its due date, the Board shall notify the local governing board, the Governor and the State Treasurer who shall suspend distribution of any Highway-User Revenue allocated to such county or municipality until the report has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period, it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality.

<u>The Board of Public Roads Classifications and Standards respectfully requests that</u> <u>you release the funds held in escrow</u>, pursuant to 39-2119 Neb.Rev.Stat., and resume distribution of Highway-User Revenue to the Village of Crab Orchard at this time. Please note that this Board's action does not alter sanctions imposed by another state agency pursuant to other states.

Sincerely,

LeMoyne D. Schulz Secretary for the Board

LDS/bpr2-gp

xc: Pete Ricketts, Governor
 Crab Orchard Village Board
 Paul Buss, Crab Orchard Street Superintendent
 Kyle Schneweis, Nebraska Department of Roads
 Teresa Kuper, Nebraska Department of Roads
 File

Attachment No. _____ Page _____ of ____ Pages

Roger A. Figard Lincoln

LeRoy G. Gerrard Stromsburg

Barbara J. Keegan Alliance

John F. Krager, III Omaha

Lisa Kramer Kennard

James A. Litchfield Wakefield

Mick Syslo Lincoln

Darold E. Tagge Holdrege

David L. Wacker Hastings

Timothy W. Weander Omaha

Edward R. Wootton, Sr. Bellevue



Pete Ricketts Governor

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June 2, 2016

Mr. Don Stenberg Nebraska State Treasurer State Capitol Rm 2003 Lincoln NE 68509

Dear Mr. Stenberg:

The Board of Public Roads Classifications and Standards, at their regular meeting on May 20, 2016, voted to lift the suspension of Highway-User Revenue to the **City of Crofton**. The suspension was initiated by letter of this board dated March 31, 2016, pursuant to action taken at the March 25, 2016 meeting. By action of your office, funds were suspended beginning with the April 11, 2016 allocation. Crofton's Standardized Annual Street Program Report for 2015-2016 was received April 1, 2016.

The penalty provision of 39-2119 Nebraska Revised Statutes provides that if any county or municipality fails to file such plan on or before its due date, the Board shall notify the local governing board, the Governor and the State Treasurer who shall suspend distribution of any Highway-User Revenue allocated to such county or municipality until the report has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period, it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality.

<u>The Board of Public Roads Classifications and Standards respectfully requests that</u> <u>you release the funds held in escrow</u>, pursuant to 39-2119 Neb.Rev.Stat., and resume distribution of Highway-User Revenue to the City of Crofton at this time. Please note that this Board's action does not alter sanctions imposed by another state agency pursuant to other states.

Sincerely,

LeMoyne D. Schulz Secretary for the Board

LDS/bpr2-gq

 xc: Pete Ricketts, Governor Mayor and City Council, City of Crofton Christopher Wortmann, Crofton Street Superintendent Kyle Schneweis, Nebraska Department of Roads Teresa Kuper, Nebraska Department of Roads File Roger A. Figard Lincoln

LeRoy G. Gerrard Stromsburg

Barbara J. Keegan Alliance

John F. Krager, III Omaha

Lisa Kramer Kennard

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Pete Ricketts Governor

STATE OF NEBRASKA

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June 2, 2016

Mr. Don Stenberg Nebraska State Treasurer State Capitol Rm 2003 Lincoln NE 68509

Dear Mr. Stenberg:

The Board of Public Roads Classifications and Standards, at their regular meeting on May 20, 2016, voted to lift the suspension of Highway-User Revenue to the **Village of Deweese**. The suspension was initiated by letter of this board dated March 31, 2016, pursuant to action taken at the March 25, 2016 meeting. By action of your office, funds were suspended beginning with the April 11, 2016 allocation. Deweese's Standardized Annual Street Program Report for 2015-2016 was received April 21, 2016.

The penalty provision of 39-2119 Nebraska Revised Statutes provides that if any county or municipality fails to file such plan on or before its due date, the Board shall notify the local governing board, the Governor and the State Treasurer who shall suspend distribution of any Highway-User Revenue allocated to such county or municipality until the report has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period, it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality.

<u>The Board of Public Roads Classifications and Standards respectfully requests that</u> <u>you release the funds held in escrow</u>, pursuant to 39-2119 Neb.Rev.Stat., and resume distribution of Highway-User Revenue to the Village of Deweese at this time. Please note that this Board's action does not alter sanctions imposed by another state agency pursuant to other states.

Sincerely,

LeMoyne D. Schulz Secretary for the Board

LDS/bpr2-go

 xc: Pete Ricketts, Governor Deweese Village Board Reed A. Miller, Deweese Street Superintendent Kyle Schneweis, Nebraska Department of Roads Teresa Kuper, Nebraska Department of Roads File

Attachment No. _____ Page ______of _____Pages

Roger A. Figard Lincoln

LeRoy G. Gerrard Stromsburg

Barbara J. Keegan Alliance

John F. Krager, III Omaha

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James A. Litchfield Wakefield

Mick Syslo Lincoln

Darold E. Tagge Holdrege

David L. Wacker Hastings

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Pete Ricketts

STATE OF NEBRASKA

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Phone (402) 479-4436 • FAX (402) 479-3525 • roads.nebraska.gov

June 2, 2016

Mr. Don Stenberg Nebraska State Treasurer State Capitol Rm 2003 Lincoln NE 68509

Dear Mr. Stenberg:

The Board of Public Roads Classifications and Standards, at their regular meeting on May 20, 2016, voted to lift the suspension of Highway-User Revenue to the **City of Harvard**. The suspension was initiated by letter of this board dated March 31, 2016, pursuant to action taken at the March 25, 2016 meeting. By action of your office, funds were suspended beginning with the April 11, 2016 allocation. Harvard's Standardized Annual Street Program Report for 2015-2016 was received May 3, 2016.

The penalty provision of 39-2119 Nebraska Revised Statutes provides that if any county or municipality fails to file such plan on or before its due date, the Board shall notify the local governing board, the Governor and the State Treasurer who shall suspend distribution of any Highway-User Revenue allocated to such county or municipality until the report has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period, it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality.

<u>The Board of Public Roads Classifications and Standards respectfully requests that</u> <u>you release the funds held in escrow</u>, pursuant to 39-2119 Neb.Rev.Stat., and resume distribution of Highway-User Revenue to the City of Harvard at this time. Please note that this Board's action does not alter sanctions imposed by another state agency pursuant to other states.

Sincerely,

Jo Mar

LeMoyne D. Schulz Secretary for the Board

LDS/bpr2-gr

 xc: Pete Ricketts, Governor Mayor and City Council, City of Harvard Kevin L. Prior, Harvard Street Superintendent Kyle Schneweis, Nebraska Department of Roads Teresa Kuper, Nebraska Department of Roads File Roger A. Figard Lincoln

LeRoy G. Gerrard Stromsburg

Barbara J. Keegan Alliance

John F. Krager, III Omaha

Lisa Kramer Kennard

James A. Litchfield Wakefield

Mick Syslo Lincoln

Darold E. Tagge Holdrege

David L. Wacker Hastings

Timothy W. Weander Omaha

Edward R. Wootton, Sr. Bellevue

2016 Minimum Standards (428 NAC 2) Board of Public Roads Classifications and Standards (NBCS) Guidelines for Relaxation of Standards Requests for Developed Designs Adopted by NBCS on May 20, 2016

1. Given that

- a. The NBCS adopted a major update of regulation 428 NAC 2 for county roads and municipal streets, and
- b. The updated 428 NAC 2 became effective on May 17, 2016, and
- c. Revising a developed design (work or a project in an advanced stage of pre-construction development) to meet minimum design standards (MDS) now required by 428 NAC 2 may delay construction or increase the cost, thus creating a special hardship, and
- d. A developed design (work or project), in the context of this guidance, is defined as:
 - i. Work in final design development, including
 - A. final plans completed as of May 17, 2016 but not yet advertised for construction bids, or has not started the construction bid solicitation process, or
 - B. plans are in NDOR PS&E for final review (Federal/State funds), or are being advertised for bids status (Local level), as of May 17, 2016 or
 - C. a valid NEPA document as of May 17, 2016 for a Federal-aid project accompanied with prepared plans, or
- 2. The NBCS provides the following guidance:
 - a. A relaxation of standards is *not* required for work or a project which meets the 2010 MDS (or has previously been granted a relaxation of standards) if, on May 17, 2016 the work or project:
 - i. Was already awarded to contract or under construction, or
 - ii. Was being advertised for letting, or was in the construction solicitation process, or any subsequent step in those processes as long as it is *awarded to contract by November 17, 2016*.
 - A developed design which does not meet 428 NAC 2 requires a relaxation of standards request submitted by February 1, 2017 in order to receive special consideration; see the caveat below. After that date, a developed design will not receive special consideration and will be treated as any other request for a relaxation of standards.
 - i. A developed design for which NBCS granted a relaxation of standards on or prior to May 20, 2016 does not require another relaxation of standards request from NBCS again for the same issue(s), assuming that circumstances upon which the relaxation of standards was based are essentially the same.
 - c. Irrespective of any of the above, if a relaxation of standards has been granted for HL93 structural capacity prior to adoption of these guidelines, the relaxation stands indefinitely and need not be brought to the NBCS again.

Attachment No

Relaxation of Standards Request

Transition to New Standards - Special Request for a Developed Design
Date of Request: [must be before February 1, 2017]
All requirements of 428 NAC 2.004 must be met; this form fulfills only some requirements
Project No Federal Project No./Control No
Structure No Project Length: mi
National Functional Classification (map is attached): ☐ Other Principal Arterial Minor Arterial Major Collector Minor Collector □ Local
State Functional Classification (map is attached):
Standards: □ Urban Area □ Rural Area
Type of Work (per new standards ★): □ New and Reconstructed □ 3R
Design Speed = MPH Anticipated (Post-Project) Posted Speed Limit = MPH
Surface: □ Paved □ Unpaved Section: □ Curbed □ Non-curbed Terrain: □ Level □ Rolling
1. New minimum design standards became effective on May 17, 2016.
 The subject work/project is a developed design defined by NBCS guidance of May 20, 2016. It is in final plans development, with the following status: [examples: approved NEPA document <u>date</u>; in PS&E will be advertising for bids on <u>date</u>, will start the solicitation process on <u>date</u>, etc.],
i. a registered Professional Engineer has stamped the plans and signed, if required, on or before May 17, 2016,
ii. meets the 2010 minimum design standards or has been granted appropriate relaxation of standards for [which standard(s) was (were) relaxed] on [date granted by NBCS], and
iii. does not meet 2016 minimum design standards for the following design criterion (criteria):
 □ Design Speed □ Vertical Curve □ Vertical Clearance □ Lane Width □ Grade □ Clear Bridge Width □ Shoulder Width □ Stopping Sight Distance □ Structural Capacity
Curve Radius Cross Slope Superelevation Horizontal Clear Zone
3. Updating the design of this work/project to meet the new standards will cause a special hardship. See supporting information and justification in the space below (add sheets as necessary) describing the impacts, including delays and additional costs, the proposed value(s)

necessary) describing the impacts, including delays and additional costs, the proposed value(s) which does (do) not meet the 2016 standard and any mitigation or justification in support of moving forward without re-designing the work or project.

★ Some work that may have been considered as Maintenance under the 2010 standards may now, under the 2016 standards, be considered New & Reconstructed (e.g. in-kind culvert replacement) or 3R (e.g. a 3-inch overlay).

Attachment No. Page 2 of 2 _Pages