Resolution No. 2014-12-03

HIGHWAY 119 METROPOLITAN DISTRICT NO. 2
PUBLIC RECORDS REQUEST POLICY
Adopted December 2, 2014

I. Purposes of the Districts' Public Records Request Policy

This Public Records Request Policy of Highway 119 Metropolitan District No. 2 (the "District") shall be applied and interpreted with the following purposes in mind:

a. To adopt a Public Records Request Policy pursuant to § 24-72-203(1), C.R.S.;

b. To provide access to and the protection and integrity of Public Records in the custody of the District;

c. To prevent unnecessary interference with the regular discharge of the duties of the District and its manager in compliance with the Colorado Open Records Act, §§ 24-72-200.1 to 24-72-206, C.R.S. ("CORA");

d. To establish reasonable and standardized fees for producing copies of and information from records maintained by the District as authorized by CORA; and

e. To set forth a general procedure for providing consistent, prompt and equitable service to those requesting access to Public Records.

II. Public Records Requests

A. Applicability

This Public Records Request Policy applies to requests submitted to the District for the inspection of Public Records pursuant to CORA, and shall supersede any previously adopted CORA policies of the District.

B. Definitions

1. "**Custodian**": Except as otherwise provided in this policy, the term "Custodian" shall mean WHITE BEAR ANKELE TANAKA & WALDRON, legal counsel for the District, or any successor that has been designated by the Board of the District to oversee the collection, retention, and retrieval of Public Records of the District.

2. "**Public Records**": As defined in § 24-74-202(6), C.R.S.

C. Submission of Requests

1. Requests for inspection of Public Records are to be submitted in writing on an official request form to the Custodian and must be sufficiently specific as to enable the Custodian to locate the information requested with reasonable effort. The official request form is attached here as **Exhibit A** and incorporated herein by this reference, as may be modified from

time to time by the District. The District has determined that the use of an official request form is necessary for the efficient handling of Public Records requests.

2. Requests may be submitted by mail, fax, e-mail or hand-delivery.

3. A request shall be considered made when the request is actually received by the Custodian:

a. A letter is received when it is opened in the usual course of business by the recipient or a person authorized to open the recipient's mail;

b. A fax is received when it is printed during regular business hours, or, if received after hours, at 8:30 a.m. on the following business day; and

c. An e-mail is received when it is received and opened during regular business hours, or, if received after hours, at 8:30 a.m. on the following business day.

4. If a deposit is required, the request is not considered received until the deposit is paid.

D. Inspection

1. The Custodian or the Custodian's designee shall make the requested Public Records available for inspection during regular business hours, deemed to be from 8:30 a.m. to 4:30 p.m., Monday through Friday, except for times the Custodian's office is closed. During the inspection of Public Records, the Custodian may ask that the requestor follow certain procedures to protect the integrity of the Public Records.

2. If a Public Record is not immediately or readily available for inspection, the Custodian or the Custodian's designee shall make an appointment or other arrangements with the applicant concerning the time at which the requested record will be available. The Public Records shall be made available for inspection within a reasonable time, which is presumed to be three (3) working days or less from the date of receipt of the request. Such three (3) day period may be extended by an additional seven (7) working days if extenuating circumstances, as described in § 24-72-203(3)(b), C.R.S., exist. Responding to applications for inspection of Public Records need not take priority over the previously scheduled work activities of the Custodian or the Custodian's designee.

3. All Public Records to which the request applies shall be preserved from the date of the request until such time as set forth in the District's records maintenance, retention, or deletion policy or practices utilized by the Custodian.

4. No one shall remove a Public Record from the Custodian's offices without the permission of the Custodian. Public Records may be removed from file folders or places of storage for photocopying by the Custodian or the Custodian's designee. The Custodian may allow a person to use his or her own portable electronic equipment to make copies of Public Records.

5. As a general practice, in response to a Public Records request:

a. Public Records in hard copy, paper, published, or documentary form shall be made available for inspection;

b. A document will not ordinarily be created in order to respond to such a request;

c. In the case of e-mail that is a Public Record, paper copies of such e-mail that is a Public Record will be made available by the Custodian in response to such a request;

d. The person making the request shall not be allowed to access the Custodian's computer or any other computer for purposes of inspecting any Public Records;

e. Any portion of a Public Record containing non-public information that is not subject to inspection may be redacted by the Custodian prior to making the record available for inspection. The Custodian is not required to redact information from a writing that is not a Public Record in order to make the writing available for inspection. *Denver Publishing Co. v. Bd. of County Comm'rs of the County of Arapahoe*, 121 P.3d 190 (Colo. 2005); *Colorado Republican Party v. Benefield, et al.*, Court of Appeals No. 07CA1216, Oct. 23, 2008 (Unpublished).

f. The Custodian, in consultation with the District's general counsel, will determine which information is no longer considered "work-in-progress" subject to the deliberative process or work product privilege and therefore eligible for release.

6. Where a request seeks in excess of 25 e-mails or other electronically-stored Public Records, the Custodian may elect to produce Public Records in electronic form on a disk or comparable media. The following procedure shall apply in responding to such a request:

a. The Custodian shall solicit the comments of the requestor regarding any search terms to be used to locate and extract such records, and, in doing so, will seek to have the request refined so that it does not result in an inordinate number of irrelevant or duplicative documents, it being understood that the Custodian will make the final determination regarding search terms;

b. The Custodian shall designate an employee or another person with experience in performing electronic searches to locate and extract responsive records;

c. The person who is designated to perform the searches shall consult, as appropriate, with legal counsel to identify privileged records that should not be produced; and

d. Where appropriate, legal counsel shall conduct a final review to identify and withhold privileged records.

7. The Custodian or the Custodian's designee shall deny the inspection of the records if such inspection would be contrary to federal or state law or regulation or would violate a court order. In special circumstances, a Custodian shall deny inspection of the Public Records if such inspection would cause substantial injury to the public interest. Such a denial shall be made in writing by the Custodian to the person making the request and shall set forth with specificity the grounds of the denial. It is not necessary to state a ground for denial of access for each document if a specific ground is applicable to a group of documents.

8. If the Public Records requested are not in the custody or control of the Custodian, the Custodian shall notify the requestor of this fact in writing. In such notification, the Custodian shall state in detail to the best of his/her knowledge and belief the reason for the absence of the Public Records, the location of the Public Records, and what person then has custody or control of the Public Records.

9. All Public Records, regardless of storage format, will be administered in accordance with approved retention schedules. The District reserves the right to adopt the records retention policy that has been promulgated by the Custodian.

E. Fees for All Record Requests

1. **Fees for standard reproductions**. The Custodian or the Custodian's designee shall charge a fee not to exceed twenty-five cents per page for any photocopies or printed copies of electronic records that are required to make a Public Record available. Other reproductions of Public Records shall be provided at a cost not to exceed the actual cost of the reproduction. Such fees shall be paid by the applicant prior to the receipt of copies of any Public Records. Requests expected to exceed a total charge of $10.00 or more must be accompanied by a deposit equal to the reasonably-estimated reproduction costs. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. In the event the deposit amount exceeds the actual costs, the balance will be refunded.

2. **Transmission fees**. No fees related to transmission shall be charged for transmitting public records via electronic mail. Within the period specified in § 24-72-203, C.R.S., the Custodian shall notify the record requester that a copy of the record is available but will only be sent to the requester once the custodian receives payment for postage if the copy is transmitted by United States mail, or payment for the cost of delivery if the copy is transmitted other than by United States mail, and payment for any other supplies used in the mailing, delivery, or transmission of the record and for all other costs associated with producing the record. Upon receiving such payment, the custodian shall send the record to the requester as soon as practicable but no more than three business days after receipt of such payment.

3. **Fees for search, retrieval and legal review**:

a. In the case of any request requiring more than one hour of time for search, retrieval, supervision of inspection, copying, manipulation, redaction or legal counsel review to identify and withhold privileged records, the Custodian or the Custodian's designee may charge a hourly fee for such time not to exceed $30.00 per hour pursuant to § 24-72-205(6)(a), C.R.S. Prior to performing any services necessary to respond to a request, the Custodian or the Custodian's designee shall require the applicant to pay a deposit equal to the reasonably estimated fees that will be charged by the

Custodian for such staff time. Before receiving any records, the applicant shall also pay the amount by which the cost of any open records services exceeds the deposit. The District shall promptly refund the amount by which the deposit exceeds the cost of any open records services.

b. To the extent possible, the Custodian shall utilize administrative or clerical staff for search and retrieval of Public Records who are ordinarily responsible for such duties to ensure that the fees charged for staff time in connection with the request represent costs incurred in the ordinary course of business and not extraordinary charges, but in any case, such charges shall not exceed $30 per hour.

Signature page follows.

APPROVED AND ADOPTED THIS 2ND DAY OF DECEMBER, 2014.

HIGHWAY 119 METROPOLITAN DISTRICT
NO. 2

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

EXHIBIT A

OFFICIAL REQUEST FORM

HIGHWAY 119 METROPOLITAN DISTRICT NO. 2

Request for Inspection/Copy of Public Records

For Internal Use Only
Date of Request: _____
Time of Request: _____AM/PM

Applicant Name: _____

Applicant Address: _____**City/State:** _____**Zip:** _____

Daytime Phone #: ( )_____**Alt. /Cell:** ( ) _____

Email: _____

Detailed description of the records requested: (Please use additional sheets if necessary)

_____
_____
_____

Please select a preferred format for the materials: Hard Copies ____ Electronic (PDF) ____ View Hard Copy Only ___

Estimated Charges:

Number of pages ___@ $0.25/page $_____ Research & Retrieval ____ hours @ $30.00/hr after one hour $_____

Postage/Delivery costs: $ _____ Total estimated cost: $_____ Deposit required: $_____

Note: Non-standard and special requests will be billed at cost and charged in addition to any other fees.

I request the records described and agree to pay all charges incurred in processing this request at or before the time the records are made available. If over $10, I understand I must provide a deposit to pay for the cost incurred to obtain the records. I understand that the Estimated Charges are estimates only, and that the actual cost may vary. This request will be considered received when this form is complete and received by the Custodian, and any required deposit is paid.

Signature: _____**Date:** _____

Please return completed form to:
White Bear Ankele Tanaka & Waldron, 2154 E. Commons Ave. Suite 2000, Centennial CO 80122
For more information call: (303) 858-1800

If the records are available pursuant to §§ 24-72-201 *et seq.* C.R.S., the records shall be made available for viewing within three working days. The date of receipt is not included in calculating the response date. If extenuating circumstances exist so that the Custodian cannot reasonably gather the records within the three-day period, the Custodian may extend the period by up to seven working days. The requestor shall be notified of the extension within the three-day period. Public records shall be viewed at the District's offices during regular business days at prearranged times.

For Internal Use Only	
Date request completed:	Amount prepaid: $_____
Approved: _____ Denied: _____	Balance due before release: $_____
If denied, provide reason(s):	Total Amount paid: $_____