

ROUND MOUNTAIN WATER AND SANITATION DISTRICT

**RESOLUTION DESIGNATING THE OFFICIAL CUSTODIAN OF
RECORDS AND ADOPTING A POLICY ON RESPONDING TO THE
OPEN RECORDS REQUESTS**

WHEREAS, pursuant to § 32-1-100(l)(h), C.R.S., the Board of Directors of the Round Mountain Water and Sanitation District (the "District") is responsible for the management, control and supervision of all of the business and affairs of the District;

WHEREAS, pursuant to § 32-1-100(l)(i), C.R.S., the Board of Directors of the District has the authority to appoint an agent;

WHEREAS, the Board of Directors of the District has determined that it is appropriate to designate an official custodian of the District's records for the protection of such records and in order to permit their inspection by persons entitled to examine and copy such records in an orderly fashion;

WHEREAS, the Board of Directors of the District has determined that it is appropriate to adopt a policy on responding to open records requests;

WHEREAS, the Board of Directors fully supports, and complies with, all Federal and State laws relating to the retention, protections and disclosure of District records including, but not limited to, the Colorado Open Records Act, Title 24, Article 72, Part 2, C.R.S. ("CORA"), as amended;

WHEREAS, it is the policy of the District that all public records shall be open for inspection by any person at reasonable times, except as otherwise provided by law; and

WHEREAS, public records are defined by CORA as all writings made or maintained by the District, regardless of the format or medium of the records, subject to certain exceptions and public records expressly include e-mail communications.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Round Mountain Water and Sanitation District that:

1. **Official Custodian.**
 - (a) The District Business Manager is hereby designated as the Official Custodian responsible for the maintenance, care and keeping of all records of the District.
 - (b) The Business Manager may designate others to act as the Official Custodian in Business Manager's absence.
 - (c) The Official Custodian shall have the authority to designate such agents as determined appropriate to perform any and all acts necessary to enforce and execute the provisions of this Policy.
2. **E-mail.** All District e-mail that constitutes a public record and is not protected from disclosure under CORA shall be available for public inspection for a reasonable fee established by this Policy. E-mail correspondence of District employee may be a public record under CORA and therefore may be subject to public inspection. Exceptions to inspection may include e-mail covered by the attorney-client privilege, work product privilege, or other privilege recognized by Colorado law. The policies for the monitoring

and retention of District employee e-mail communications are set forth separately.

3. **Policy on Responding to Open Records Request**. The following are general policies concerning the release of records:
 - (a) All public records of the District shall be open for inspection at the times designated herein, unless prohibited by the provisions of CORA or policies adopted by the Board of Directors in conformance with CORA.
 - (b) Upon receipt, requests to inspect and/or copy any District record (collectively referred to as a "Records Request") should be immediately sent to the Official Custodian.
 - (c) Every Records Request shall be submitted to the District's Official Custodian in writing and shall be specific as to the information desired.
 - (d) If any question arises as to the propriety of fully complying with a Records Request, the Official Custodian shall immediately forward it to the District's legal counsel.
 - (e) The District's legal counsel shall determine the District's obligations under the applicable Federal and/or State law(s). If the District is required to comply with the Records Request in whole or in part, the Official Custodian will assemble the disclosable requested documents for inspection and/or copying in accordance with applicable Federal or State law. If any records are withheld or redacted, the District shall state the legal basis for such action.
 - (f) Pursuant to CORA, all records must be made available for inspection within three (3) working days, unless extenuating circumstances exist. The deadline may be extended by seven (7) working days if extenuating circumstances exist and the requesting party is notified of the delay within the statutory period. The Official Custodian may set the time during normal office hours and the place for records to be inspected. A District employee shall be present while the records are examined. Inspection of the District's public records shall be made during normal business hours, Monday through Friday, except on holidays, at a time set by the Official Custodian for each Records Request. With permission, photographs may be taken, and the requesting party can bring a duplicating machine, so records are not damaged and business operations are not disrupted.
 - (g) Pursuant to § 24-72-205(5)(a), C.R.S., a person requesting District records may be furnished with copies at a cost of twenty-five cents (\$.25) per standard page. The charge for providing a copy, printout or photograph of a public record in a format other than a standard page will be assessed at the actual cost of production.
 - (h) Pursuant to § 24-72-205(6)(a), C.R.S., the Official Custodian shall impose a research and retrieval fee of thirty-three dollars and fifty-eight cents (\$33.58) per hour after the first hour of research and retrieval, which shall be free of charge. This hourly research and retrieval fee shall update automatically every five years to match the maximum hourly fee posted pursuant to § 24-72-205(6)(b), C.R.S., as amended.
 - (i) The District shall require a deposit to cover the estimated cost to produce the records, including the cost of the copies and the research and retrieval fee, prior

to commencing work to produce such records. If the actual costs exceed the initial deposit, an additional deposit must be made prior to release of the records.

- (j) If a requesting party seeks documents in a digital format, the following guidelines apply:
- The District may provide electronic copies by e-mail or an external hard drive provided by the District.
 - If the digital format of the record is searchable, but not sortable, the Official Custodian shall provide a copy in a searchable format.
 - If the digital format of the public record is sortable, then the Official Custodian shall provide a copy in a sortable format (such as Excel or a comma-separated values ("CSV") format).
 - If a record is stored by the Official Custodian in a digital format that is not searchable or sortable (such as a scanned or saved pdf), the Official Custodian is not required to convert the record to a searchable or sortable format, but may provide the record in the digital format in which it is stored.
 - If the record is searchable or sortable, the Official Custodian does not have to provide records in these formats if: (a) it is not technically or practically feasible after making reasonable inquiries to permanently remove information permitted to be withheld; (b) it is not technologically or practically feasible to provide a copy of the record in searchable or sortable format; or (c) the Official Custodian would be required to purchase software or create additional programming or functionality of its existing software to remove information.
 - If the Official Custodian is not able to comply with a Records Request in a requested format, the Official Custodian shall produce the record in an alternative format and shall provide a written declaration as to the reason(s) for not being able to provide the information in the requested format.
- (k) When practical, the copy, printout, or photograph of the requested record will be made in the place where the record is kept, but if it is impractical to do so, the Official Custodian may make arrangements to be made for the copy, printout, or photograph to be made at other facilities. If other facilities are necessary, the cost of providing requested records will be paid by the person making the request. The District shall retain control of the records at all times.
- (l) No person shall be permitted to inspect or copy any records of the District if, in the opinion of the Official Custodian after consultation with the District's legal counsel, such inspection or copying would come within the prohibition of one or more exemptions set forth in CORA.
- (m) Any of the notices required herein may be issued by District's legal counsel in lieu of the Official Custodian. By written notice, the District's legal counsel may require that any requesting party contact the District's legal counsel rather than the Official Custodian.
4. **Repeal of Prior Policy.** The policy set forth in this Resolution replaces all prior policies related to CORA compliance and such prior policies are hereby repealed.

5. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.
6. **Effective Date.** This Resolution shall take effect and be enforced immediately upon its approval by the Board of Directors of the District.

The foregoing Resolution 2020- _____ was approved and adopted this ____ day of February, 2020.

Round Mountain Water and Sanitation District

By: Charles Bogle, Chairman

Attest:

Steve Lasswell, Vice Chair