

PROJECT 7 WATER AUTHORITY

RESOLUTION NO. 2025-02 – ADOPTED JANUARY 23, 2025

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

WHEREAS, Project 7 Water Authority (“Authority”) is a quasi-municipal corporation and political subdivision of the State of Colorado established pursuant to an Establishing Contract as amended by that certain First Amendment dated April 22, 1981, as further amended by that certain Second Amendment dated June 24, 1998, as further amended by that certain Third Amendment dated June 28, 2018 (together, the “Establishing Contract”); and

WHEREAS, pursuant to the Establishing Contract and C.R.S. 29-1-204.2, the Authority’s Board of Directors (“Board”) is charged with conducting the business and affairs of the Authority; and

WHEREAS, the Board is expressly authorized to adopt regulations and by implication, policies and procedures with respect to the exercise of its powers and for carrying out the purposes of the Authority; and

WHEREAS, the Authority has determined that it is necessary and in the best interest of the Authority to designate an official records custodian and adopt policies on responding to Open Records Requests; and

WHEREAS, the Board desires and intends to fully comply with all Federal and State laws relating to the retention, protection and disclosure of Authority records including, but not limited to, the Colorado Open Records Act, Title 24, Article 72, Part 2, C.R.S. (“CORA”), the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the Privacy Rule promulgated by the U.S. Department of Health and Human Services which interprets and implements HIPAA; and

WHEREAS, it is the policy of the Authority 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 Authority, regardless of the format or medium of the records, subject to certain exceptions and public records expressly include certain e-mail communications.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Project 7 Water Authority that:

1. Official Records Custodian.

(a) The Authority’s general manager, is hereby designated as the Authority’s official records custodian (the “Official Custodian”) responsible for the maintenance, care and keeping of all records of the Authority, except as provided herein.

(b) The Official Custodian shall have the authority to designate such agents as they shall determine appropriate to perform any and all acts necessary to enforce and execute the provisions of this Resolution.

2. Policy on Responding to Open Records Request. The following are general policies concerning the release of records that should be followed by the Authority, as applicable:

(a) All public records of the Authority shall be open for inspection at the times designated herein, unless prohibited by the provisions of CORA or policies adopted by the Board in conformance with CORA.

(b) Every request to inspect and/or copy any Authority record (a "Records Request") shall be submitted to the Authority's Official Custodian in writing and be specific as to the information desired. If not submitted to the Official Custodian, any Authority employee or Board Member that receives the Records Request shall immediately send the Records Request to the Official Custodian. To assist the Official Custodian in responding to requests in a timely and complete manner, the Official Custodian may require records requests to be submitted on a form developed by the Official Custodian.

(c) If any question arises as to the propriety of fully complying with a Records Request, the Official Custodian shall immediately forward it to the Authority's legal counsel. A copy of all Records Requests shall be forwarded to the Authority's legal counsel upon receipt by the Official Custodian or any other representative of the Authority.

(d) The Authority's legal counsel shall determine the Authority's obligations under applicable Federal and/or State law(s). If the Authority is permitted to make records available for inspection in whole or in part, the Authority's legal counsel will so notify the Authority's Official Custodian, who will assemble the disclosable requested documents for inspection and/or copying in accordance with applicable Federal or State law.

(e) If the Authority's legal counsel determines the Authority is not permitted by Federal or State law to make records available for inspection in whole or in part, legal counsel shall provide a written response to the party submitting the Records Request stating the legal basis upon which the Records Request in whole or in part is being denied.

(f) Following the denial of a request for record, upon receipt of the required written notice from the requesting individual that he or she will seek relief from the Authority Court, the Official Custodian will attempt to meet in-person or speak by telephone with the requesting individual. Authority personnel are encouraged to utilize all means to attempt to resolve the dispute during this time period and will provide a written summary of the Authority's position at the end of that period to the requestor and to the Authority's Board of Directors. No phone or in-person conference is required if the written notice indicates that the requestor needs access to the record on an expedited basis.

(g) Pursuant to CORA, all records must be made available for inspection within three (3) working days from the Official Custodian's receipt of the request, 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 three (3) working days of the Official Custodian's receipt of the request. The Official Custodian may set the time, which shall be during normal office hours, and the place for records to be inspected, and require that the Official Custodian or a delegated employee be present while the records are examined.

(h) A public record stored in a digital format that is neither searchable nor sortable will be provided in a digital format. A public record stored in a digital format that is searchable and/or sortable will be provided in such digital format, unless (1) the public record is in a searchable or sortable format and producing the record in the requested format would violate the terms of any copyright or licensing agreement between the Authority and a third party; (2) producing the record would result in the release of a third party's proprietary information; (3) after making reasonable inquiries, it is not technologically or practically feasible to provide a copy of the record in a searchable or sortable format; or (4) if the Official Custodian would be required to purchase software or create additional programming functionality in its existing software to remove the information. A public record available in digital format shall be provided in digital format by electronic mail or by another method, as agreed on by the requesting individual and the Official Custodian.

(i) Altering an existing digital public record, or excising fields of information that the Official Custodian is either required or permitted to withhold under this policy, does not constitute the creation of a new public record under Section (2)(i)(iv) of this Resolution.

(j) The Custodian may charge the following fees (collectively, the "Fees") for responding to a Records Request:

(i) Printouts, photographs, and copies, when requested, will be provided at a cost of twenty-five cents (\$0.25) per standard page, and at the actual costs of production for any non-standard page (the "Copying Fee"), except that no per-page fee will be charged for providing records in a digital or electronic format. A standard page shall mean an 8.5-inch by 11-inch black and white copy.

(ii) When it is impractical to make the copy, printout, or photograph of the requested record at the place where the record is kept, the Official Custodian may allow arrangements to be made for the copy, printout, or photograph to be made at other facilities and the cost of providing the requested records will be paid by the person making the request (the "Outside Copying Fee").

(iii) If a copy, printout or photograph of a public record is necessary or requested to be provided in a format other than a standard page, the costs will be assessed at the actual cost of production (the "Production Fee").

(iv) If data must be manipulated in order to generate a record in a form not otherwise used by the Authority, such data manipulation will be assessed at the actual costs to the Authority (the "Manipulation Fee"); however, the Authority is in no way obligated to generate a record that is not otherwise kept, made, or maintained by the Authority.

(v) The cost for transmitting the requested records will be charged at the actual cost of such delivery (the “Transmission Fee”). Transmission Fees will not be charged for transmitting any record via electronic mail, when requested.

(vi) When the location or existence of specific documents must be researched and the documents must be retrieved, sorted or reviewed for applicability to the request, and such process requires more than one (1) hour of staff time, the Custodian may charge a research and retrieval fee not to exceed forty-one dollars and thirty seven cents (\$41.37) per hour, or the maximum amount allowed by the Executive Committee of the State Legislative Council, whichever is greater (the “Research and Retrieval Fee”).

(vii) If any requested records are protected by a privilege (for example, but not limited to, the work product or attorney-client privileges) the Authority may charge the actual costs of creating a privilege log identifying the privileged records (the “Privilege Fee”). If legal assistance or review is necessary to create the privilege log, the Privilege Fee may include the actual costs for such legal assistance.

(k) If the estimated Fees to produce the records will exceed \$250.00, the Authority may require a fifty percent (50%) deposit of the estimated Fees prior to commencing work to produce the records. Payment of the remainder of the Fees, including all actual costs exceeding the estimated amount, must be made prior to the time of inspection or release of the final work product or copies. All payments of Fees, including deposits, may be made via cash or check; or credit card, debit card, or electronic payment but only if at the time the records request is received the Authority allows payment for services or products via debit card, debit card or electronic payment.

(l) No person shall be permitted to inspect or copy any records of the Authority if, in the opinion of the Official Custodian after consultation with the Authority’s legal counsel, such inspection or copying would come within the prohibition of one or more exemptions set forth in CORA.

(m) Except as required by Section 24-72-204(3.5)(g), C.R.S. and except when a requested record is confidential and accessible only on the basis that the requester is the person in interest, no form of identification shall be required to request or inspect public records.

3. 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.

4. Repealer. All resolutions, or parts thereof, in conflict with this Resolution, including but not limited to the Prior Resolution, are hereby repealed, provided that this section shall not repeal the repealer clauses of any prior resolutions or hereby revive any resolutions previously repealed.

5. Effective Date. This Resolution shall take effect and be enforced immediately upon its approval by the Board of Directors of the Authority.