

RESOLUTION OF CUCHARAS SANITATION AND WATER DISTRICT

RESOLUTION #2014-05

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

WHEREAS, pursuant to §32-1-1001(1)(h), C.R.S., the Board of Directors of the Cucharas Sanitation & Water District (“District”) is responsible for the management, control and supervision of all of the business and affairs of the District; and

WHEREAS, pursuant to §32-1-1001(1)(i), C.R.S., the Board of Directors of the District has the authority to appoint an agent; and

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; and

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

WHEREAS, the Board of Directors fully supports, and complies with, all Federal and State laws relating to the retention, protection 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”), 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 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; and

WHEREAS, the District maintains an archive of all e-mail messages for emergency backup purposes only; such archived e-mail communications are not individually retrievable and are specifically not intended to create a public record;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Cucharas Sanitation & Water District that:

1. Official Custodians.

(a) Jennette Coe, the Bookkeeper of the District, is hereby designated as the Primary Official Custodian responsible for the maintenance, care and keeping of all records of the District, except as provided herein.

(b) The construction manager for the District's construction projects is hereby designated as the Official Custodian responsible for the maintenance, care and keeping of all records associated with the District's construction projects, subject to the control, supervision and direction of the Primary Official Custodian.

(c) The Official Custodians 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:

(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 by a citizen, entity, Federal or State agency, District member, subpoena, Administrative or Court Order, or other legal process, 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 on a form provided by the Official Custodian 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 permitted to comply with the Records Request in whole or in part, the District's legal counsel will so notify the District's Official Custodian, who will assemble the disclosable requested documents for inspection and/or copying in accordance with applicable Federal or State law.

(f) If the District's legal counsel determines the District is not permitted by Federal or State law to comply with the Records Request 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.

(g) 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 and require that the Official Custodian or a delegated employee be present while the records are examined. Inspection of the District's public records shall be made, where permitted by law, during normal business hours, Monday through Friday, except on holidays, at an hour specifically set by the appropriate Official Custodian for each particular request for inspection

(h) A person granted the right to inspect District records may also be furnished copies requested 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. Additionally, in those cases where 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 hour of staff time, the Custodian may charge a research and retrieval fee not to exceed thirty dollars (\$30.00) per hour. The Custodian will not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. Any fee charged for the research and retrieval will be the same for all requesting parties, whether the requesting party is an individual, a representative of the media, a public or private entity, a for-profit or nonprofit entity, or otherwise.

(i) The District may require a deposit to cover the estimated cost to produce the records, including the cost of the copies, the research and retrieval fee and any delivery costs, prior to commencing work to produce such records. Payment of any actual costs exceeding the deposit must be made at the time of release of the final work product or copies.

(j) 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 allow 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.

(k) Upon request by the requesting party, the Official Custodian will transmit a copy of the record by U.S. Mail, other delivery service, facsimile, or electronic mail, subject to a determination by the Official Custodian as to the most appropriate method for transmitting copies of the disclosable records. No transmission fees will be charged to the records requester for transmitting public records via electronic mail.

(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 general counsel, such inspection or copying would come within the prohibition of one or more exemptions set forth in CORA.

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. **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 was approved and adopted this 8th day of August, 2014.

CUCHARAS SANITATION & WATER
DISTRICT

By: _____
Arthur J. Pierce, Chairman

Attest:

Jimmy VanLue, Secretary