

**CLEAR CREEK FIRE AUTHORITY**

**RESOLUTION NO. 2014-02**

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

WHEREAS, the Clear Creek Fire Authority (the "Authority") was established by an intergovernmental agreement to provide fire protection services within and beyond Clear Creek County and is organized pursuant to the provisions of the Colorado Constitution, Article XIV, Section 18(2)(a) and (b) and Section 29-1-203, C.R.S.; and

WHEREAS, except as specifically provided for in said intergovernmental agreement, the Authority has and may exercise all those powers and functions as vested in statutory fire protection districts pursuant to §§ 32-1-1001 and 32-1-1002, C.R.S.; and

WHEREAS, the Board of Directors of the Authority has determined that it is appropriate to designate an official custodian of the Authority'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 Authority 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 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 e-mail communications; and

WHEREAS, the Authority 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 Clear Creek Fire Authority that:

1. Official Custodian.

(a) The Recording Secretary of the Authority, is hereby designated as the Primary 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:

(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 of Directors in conformance with CORA.

(b) Upon receipt, requests by a citizen, entity, Federal or State agency, Authority member, subpoena, Administrative or Court Order, or other legal process, to inspect and/or copy any Authority 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 Authority's Official Custodian in writing and 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 Authority's legal counsel.

(e) The Authority's legal counsel shall determine the Authority's obligations under the applicable Federal and/or State law(s). If the Authority is permitted to comply with the Records Request 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.

(f) If the Authority's legal counsel determines the Authority 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 Authority'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 Authority 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.

(i) The Authority may 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. 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) 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 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 Authority.

The foregoing Resolution was approved and adopted this 10<sup>th</sup> day of SEPTEMBER, 2014.

CLEAR CREEK FIRE AUTHORITY

By: Gene Day  
Gene Day, Chairman

Attest:

Tim Mauck  
Tim Mauck, Secretary