

RESOLUTION 2023-02

ST. VRAIN WATER AUTHORITY
BOULDER, LARIMER AND WELD COUNTIES, COLORADO

**A RESOLUTION OF THE ST. VRAIN WATER AUTHORITY DESIGNATING THE
AUTHORITY'S OFFICIAL RECORDS CUSTODIAN AND ADOPTING A POLICY
FOR RESPONDING TO OPEN RECORDS REQUESTS**

WHEREAS, the St. Vrain Water Authority ("Authority") is a quasi-municipal corporation and political subdivision of the State of Colorado established pursuant to the St. Vrain Water Authority Establishing Contract dated April 24, 2019 ("Establishing Contract") entered into by and between the Town of Firestone and the Little Thompson Water District ("Water District" and collectively the "Members"); 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 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, including email correspondence regardless of the format or medium of the records, subject to certain exceptions.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the St. Vrain Water Authority, Counties of Boulder, Larimer and Weld, Colorado, as follows:

Section 1. Official Records Custodian.

(a) The Authority's Secretary is hereby designated as the Official Records Custodian ("Records Custodian") responsible for the maintenance, care and keeping of all records of the Authority, except as provided herein.

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

Section 2. Policy on Responding to Open Records Request. The following are general policies concerning the release of public 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, all requests by a citizen, entity or 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 a "Records Request") shall immediately be sent to the Authority's Records Custodian.

(c) Every Records Request shall be submitted to the Authority's Records Custodian in writing and be specific as to the information desired. If any question arises as to the propriety of fully complying with a Records Request, the Records Custodian shall immediately forward it to the Authority's legal counsel.

(d) The Authority's legal counsel shall determine the Authority's obligations under applicable federal and/or state law. 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 Records 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 in the exercise of its discretion should not or is not permitted by federal or state law to comply with the Records Request in either 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) 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 Records Custodian may set the time during normal office hours and the place for records to be inspected and require that the Records 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, or at an hour specifically set by the Records Custodian for each particular request for inspection.

(g) A public record stored in a digital format that is neither searchable nor sortable will be provided in such digital format. Public records 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 Records Custodian would be required to purchase software or create additional programming functionality in its existing software to remove the propriety or protected information. Altering an existing digital public record, or excising fields of information that the Records Custodian is either required or permitted to withhold under this subsection, does not constitute the creation of a new public record under Section (2)(h)(iv) of this Resolution.

(h) The Records 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 ("Copying Fee"). 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 Records 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 ("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 ("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 ("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 ("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 thirty-three dollars and fifty-eight cents (\$33.58) per hour, or the maximum amount allowed by the Executive Committee of the State Legislative Council, whichever is greater (“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 (“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.

(i) If the estimated Fees to produce the records will exceed three-hundred dollars (\$300), the Authority may require a thirty percent (30%) 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.

(j) No person shall be permitted to inspect or copy any records of the Authority if, in the opinion of the Records 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.

Section 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.

Section 4. Effective Date. This Resolution shall take effect and be enforced immediately upon its approval by the Board of Directors of the Authority.

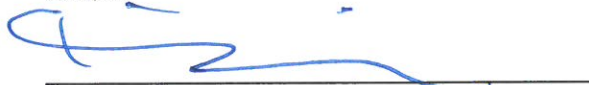
The foregoing Resolution was approved and adopted this 13th day of February, 2023.

ST. VRAIN WATER AUTHORITY

By: 

Julie Svaldi, President

Attest:


David Lindsay, Secretary