RESOLUTION NO. 2012-7

A Resolution of the Pierce County Flood Control Zone District Board of Supervisors Establishing Public Records Inspection and Copying Procedures.

Whereas, Revised Code of Washington (RCW) 42.56.070 requires every agency to make public records available for public inspection and copying in accordance with published rules; and

Whereas, the Board of Supervisors of the District desires to establish by resolution the District rules for the inspection and copying of District public records; **Now, therefore**

BE IT RESOLVED by the Board of Supervisors of the Pierce County Flood Control Zone District:

Section 1. Authority and Purpose.

A. Chapter 42.56 RCW, the Public Records Act ("act"), requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public records" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency, regardless of physical form or characteristics.

B. The purpose of these rules is to establish the procedures the District will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the District and establish processes for both requesters and the District staff that are designed to best assist members of the public in obtaining such access. These rules have been written to incorporate best practices for compliance with the act and are based upon and organized according to Model Rules promulgated by the Attorney General of the State of Washington (WAC 44-14).

C. The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights, to protect public records from damage or disorganization and to prevent excessive interference with other essential functions of the agency. The act and these rules will be interpreted

in favor of disclosure. In carrying out its responsibilities under the act, the District will be guided by the provisions of the act describing its purposes and interpretation.

Section 2. Agency Description - Contact Information - Public Records Officer.

A. The District is a quasi-municipal corporation of the State of Washington and an agency subject to the act.

B. All Pierce County departments, divisions and bureaus providing services for and acting on behalf of the District are required to follow these procedures for public records of the District.

C. The public records officer for the District shall be the Pierce County Public Works Director, whose address is 2702 South 42nd Street, Suite 201, Tacoma, WA 98409, phone number of (253) 798-2790, fax number of (253) 798-2740 (hereafter referred to as the "public records officer").

D. The public records officer will oversee compliance with the act but the officer's designee may process the request. Therefore, the term "public records officer" in these rules shall include designee of the public records officer. The public records officer will provide the "fullest assistance" to requesters; ensure that public records are protected from damage or disorganization; and prevent fulfillment of public records requests from causing excessive interference with essential functions of the District or its contracting agencies, including but not limited to Pierce County.

Section 3. Availability of Public Records.

A. Hours for Inspection of Records. Public records are available for inspection and copying during normal business hours of the District, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the offices of the public records officer or such other location designated by the public records officer.

B. Records Index. The District Board of Supervisors finds that maintaining an index is unduly burdensome and would interfere with operations for the District for the reason that the District has no employees, relying on services from Pierce County and contractors. Furthermore, Pierce County does not maintain an index, having found that maintaining an index is unduly burdensome or would interfere with Pierce County operations.

C. Organization of Records. The District maintains its records in a reasonably organized manner. The District will take reasonable actions to protect records from damage and disorganization. A requester shall not take original records from District offices. After the District establishes a website, a variety of records will be available on the District website. Requesters are encouraged to view the documents available on the website prior to submitting a records request (RCW 42.56.520).

D. Making a Request for Public Records.

1. Any person wishing to inspect or obtain copies of public records of the District shall make the request in writing on the District's standards request form, by delivery, U.S. mail, or fax, or addressed to the public records officer. The form shall include the following information:

a. Legal name of requester;

b. Mailing address of requester;

c, Other contact information, including telephone number, fax number, and any e-mail address;

d. Reasonable identification of the public records requested adequate for the public records officer to identify and locate the records;

e. The date and time of day of the request; and

f. The signature of the requester.

2. If the requester wishes to have copies of the records made, instead of simply inspecting them, he or she shall so indicate and make arrangements to pay for copies of the records or at least make a deposit of 10 percent of the cost of copying estimated by the public records officer before copying will commence. Pursuant to Section 6 of this resolution, standard black and white 8 1/2" x 11" photocopies will be provided at 15 cents per page.

3. Any person requesting public records that include a list of individuals will be required to provide a declaration under penalty of perjury, certifying sufficient facts from which the public records officer can reasonably determine that the records will not be used for any commercial purpose (profit-expecting activity) prohibited by RCW 42.56.070(9) unless specifically authorized by other law.

4. Any person requesting public records for which other laws limit or prohibit disclosure to a particular class of persons or for limited purposes will be required to provide a declaration under penalty of perjury, certifying sufficient facts from which the public records officer can reasonably determine that the legal requirements for disclosure of such records to the requester have been met.

Section 4. Processing of Public Records Requests - General.

A. Providing "fullest assistance." The District is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requesters, and

provide the "most timely possible action" on public records requests. The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

B. Acknowledging Receipt of Request. Within five business days of receipt of the request, the public records officer will do one or more of the following:

1. Make the records available for inspection or copying;

2. Provide in writing, mailed or delivered to the requester, a reasonable estimate of time when records will be available;

3. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requester. Such clarification may be requested and provided by telephone, but it is desirable to confirm such clarifications in writing. The public records officer may revise the estimate of when records will be available; or

4. Deny the request, in whole or in part.

C. Consequences of Failure to Respond. If the District does not respond in writing within five business days of receipt of the request for disclosure, the requester should contact the public records officer to determine the reason for the failure to respond.

D. Protecting Rights of Others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requester and ask him or her to revise the request or, if necessary, to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

E. Records Exempt or Prohibited from Disclosure. Some records are exempt from or are prohibited from disclosure by law, in whole or in part. If the District believes that a record is exempt from or prohibited from disclosure and should be withheld, the public records officer will state the specific exemption or prohibition under which the record or a portion of the record is being withheld. If only a portion of a record is exempt or prohibited from disclosure but the remainder is not exempt or prohibited, the public records officer will redact the exempt or prohibited portions, provide the nonexempt portions, and indicate to the requester why portions of the record are being redacted.

F. Inspection of Records.

1. Consistent with other demands, the District shall promptly provide space to inspect public records. No member of the public may remove a document from the

viewing area or disassemble or alter any document. The requester shall indicate which documents he or she wishes the District to copy.

2. The requester must claim or review the assembled records within 30 days of the District's notification to him or her that the records are available for inspection or copying. The District will notify the requester in writing of this requirement and inform the requester that he or she should contact the District to make arrangements to claim or review the records. If the requester or a representative of the requester fails to claim or review the records within the 30-day period or make other arrangements satisfactory to the District, the District may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or similar records, which can be processed as a new request.

G. Providing Copies of Records. After inspection is complete, the public records officer shall make the requested copies or arrange for copying upon a deposit of at least 10 percent of the estimated cost of copying.

H. Providing Records in Installments. When the request is for a large number of records, the public records officer will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requester fails to inspect the entire set of records or one or more of the installments after being made available, or to pay the balance of the cost of copying of records copied or those copied in an installment, the public records officer may stop searching for the remaining records and close the request.

I. Completion of Inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the District has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

J. Closing Withdrawn or Abandoned Request. When the requester either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requester that the District has closed the request. Subsequent copies requested may not be made until the requester has paid any unpaid bill for copying services requested by the requester, whether or not the copies previously made have been retained for the requester or destroyed when the previous bill remained unpaid for more than 30 days after notice mailed to the requester.

K. Later Discovered Documents. If, after the District has informed the requester that it has provided all available records, the district becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requester of the additional documents and provide them on an expedited basis.

L. Protection of Records and Functions.

1. Public records shall be made available without disrupting essential functions of the District offices.

2. The District may follow a reasonable schedule regarding retrieval of a record from an off-premises storage site so that no more than one trip per week to the remote site is required.

3. With regard to copying, prearrangement is recommended so that it can be accommodated within the work schedule. Copies shall be made only by the public records officer. The precise time must remain flexible and will depend upon the work schedule for that day.

4. With regard to video or audio recordings, prior arrangements must be made for review. The public records officer will operate the District recording equipment necessary to either listen to or re-record the original recording tape to protect originals. The public records officer may limit the maximum time allowed during any working day for supervised review to avoid excessive interference with the District's other essential functions. If the District is able to provide access which excludes the requester from access to original records which might be damaged or disorganized and from access to originals or copies prohibited or exempt from disclosure, additional time may be made available.

5. Review of other original records shall be done only in the immediate presence of and under the supervision of the public records officer to protect the originals against damage, alteration, or disorganization by the requester. The public records officer may limit the maximum time allowed during any working day for supervised review to avoid excessive interference with the District's other essential functions. When the time needed for this purpose exceeds two hours, time periods on a future day or days may be assigned. If the District is able to provide access which excludes the requester from access to original records which might be damaged or disorganized and from access to originals or copies or exempt from disclosure, additional time may be made available.

Section 5. Exemptions.

A. The act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Exemptions outside the act that restrict the availability of some documents held by the District for inspection and copying include, but are not limited to, those set forth for municipalities in the most recent list of other such statutes posted on the web site of the Municipal Research Service Center, which is presently www.mrsc.org/Publications/pra12.pdf, Appendix C, and which is

incorporated herein by reference. The list is available for inspection and copying from the public records officer.

B. The District is prohibited by statute from disclosing lists of individuals for commercial purposes.

Section 6. Costs of Providing Copies of Public Records.

A. Costs Required for Inspection. There is no fee for inspecting public records. There is no fee for the staff time necessary to prepare the records for inspection, for the copying required to redact records before they are inspected, or an archive fee for getting the records from off-site. The costs of making the records available for inspection or copying are not charged to the requester.

B. Costs for Copies. A requester may obtain standard 8 1/2" x 11" black and white photocopies for 15 cents per page. If the District determines that the actual cost of copying is other than 15 cents per page, that charge may be collected if a statement of the factors and the manner used to determine this charge is available from the public records officer. Before beginning to make these copies, the public records officer may require a deposit of 10 percent of the estimated costs of copying all the records selected by the requester. The public records officer shall require the payment of the remainder of the copying costs for those copies before providing them to the requester, whether they include all of the records or an installment. The District does not charge sales tax when making copies of public records.

C. Costs for Electronic Records. The cost of electronic copies of records shall be the amount per hour for copying information on a CD-ROM or other media, plus the listed cost for each CD-ROM or other media as set forth in the statement of the factors and manner used to determine this charge available from the public records officer.

D. Costs of Mailing. The District may also charge actual costs of mailing, including the cost of the shipping container or envelope if the requester requests mailing or shipping.

E. Payment. Payment may be made by cash, check or money order to the Pierce County Flood Control Zone District.

F. Waiver of Payment. The District may waive the cost of copying if the cost is less than the cost of processing payment as determined by the public records officer.

G. Charges Required by Other Statutes. If a different charge for copies or certification is required to be collected by a statute other than the act, such as RCW 36.18, RCW 46.52.085 or RCW 10.97.100, the provisions of that statute shall govern.

H. Outside Contracts for Copying. The District may arrange for copying by contractors charged with preserving and protecting public records, instead of copying

requested records using District services. In such event, the cost of copying charged shall be the contract charges, and such charges shall be paid by the requester directly to the contractor who performed the copying. If the requester made a deposit in advance of copying, any unapplied portion of the deposit will be refunded to the requester, provided that the contract charges are paid and the copies are picked up by the requester within 30 days after written notice of the unpaid contract charges is mailed to the requester's address.

Section 7. Review of Denials of Public Records.

A. Petition for Internal Administrative Review of Denial of Access. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.

B. Consideration of Petition for Review. The public records officer shall promptly provide the petition and any other relevant information to the Chair of the Board of Supervisors to conduct the review, who shall immediately consult with the District legal counsel before action on the petition. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the District's receipt of the petition, or within such other time as is mutually agreeable to the District and the requester.

C. Judicial Review. Any person may obtain judicial review of a public records request denial pursuant to RCW 42.56.550 at the conclusion of two business days following the initial denial regardless of any internal administrative appeal.

Section 8. Access to Public Records.

The providing of public records shall be governed by the following procedures:

A. Public records shall be made available without disrupting essential functions of the District office which for purposes of this resolution shall include any office where District records are stored, assembled or offered for review.

B. Duplicate, carbon copy or other secondary records are to be dealt with in the same manner as the original or primary copy.

C. With regard to photocopying, prearrangement for copies of records is recommended so that they can be accommodated within the work schedule. Copies shall be made only by the public records officer once each day. The precise time must remain flexible and will depend upon the work schedule for that day. Copies may be picked up later in the afternoon or the next day.

D. With regard to other printing, Ozalid, Sepia, blueprints, or photostatic copies of maps, graphs, charts, etc., which cannot be produced within the District office will be forwarded to the appropriate outside business. The requestor will be billed directly by the printer. This will be performed once each day in a manner similar to photocopying.

E. With regard to tape recordings, prior arrangements must be made to listen to or copy a tape recording. The public records officer will be assigned to operate the District recording equipment necessary to either listen to or re-record the original tape. To maintain the District's and individual's work schedule, two hours shall be the maximum time allowed during any working day for this purpose. When the time needed for this purpose exceeds two hours, time periods on future day or days will be assigned.

F. With regard to the production of transcripts, not more than two hours each working day shall be expended by the transcriber. Time periods shall be adjusted daily to fit the normal work schedule.

ADOPTED this 11th **day of** July **, 2012.**

ATTEST:

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT
Pierce County, Washington

Cathy Sala
Cathy Sala, Clerk of the Board

Joyce McDonald
Joyce McDonald, Board Chair