

EXHIBIT A

A. PURPOSE AND SCOPE

The District is required by the Public Records Act ("PRA" or the "Act"), Chapter 42.56 RCW, to adopt and enforce reasonable rules and regulations to provide public access to Public Records. This policy complies with the requirements of the PRA by providing for straight-forward, predictable practices for responding to and fulfilling requests for disclosure of Public Records in a manner consistent with the PRA.

This policy includes both statutory requirements and best practices. Except where these provisions are mandated by statute, any duties identified in this policy are discretionary and advisory only and shall not impose any affirmative duty on the District. The District reserves the right to apply, interpret, modify, or suspend this policy at any time.

This policy shall be available at the District Administration Offices and posted on the District's website.

B. POLICY

It is the policy of the Everett Public Facilities District, (the "District") to release records of the District in compliance with the Public Records Act and any other applicable provisions of federal or state law.

1. Public Records Officer.

a) Public Records Officer – The Board of Directors shall appoint a public records officer who shall serve as the Public Records Officer ("PRO"). This appointment shall be posted on the website. All requests must be submitted to the PRO unless the PRO has delegated the request to a specific staff member.

b) The Public Records Officer shall:

- i) Be responsible for implementing the District's process regarding disclosure of Public Records;
- ii) Serve as the principal contact point with any Requestor who has made a records request to the District, unless the PRO has delegated these responsibilities to a specific staff member;
- iii) Coordinate OVG staff in this regard, generally ensuring the compliance of the staff with Public Records disclosure requirements;
- iv) Make the final decision in cooperation with a legal advisor regarding disclosure and application of exemptions;

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- v) Maintain the agency's indices, if any;
- vi) Maintain a log of Public Records requests; and
- vii) Undergo training required of Public Records Officers by Washington State law. (RCW 42.56.152)

2. How to Make a Public Records Request

Individuals submitting PRA requests ("Requestors") should contact the PRO via email at ContactUs-angelofthewindsarena@oakviewgroup.com, by phone at 425-322-2600, at the Everett Public Facilities District office located at 2000 Hewitt Avenue, Suite 200, Everett, WA 98210, or via first class mail addressed to Public Records Officer, Everett Public Facilities District, 2000 Hewitt Avenue, Suite 200, Everett, WA 98201.

All requests should include the following information:

- i) An indication that the request is being made for access to a Public Record pursuant to the PRA.
- ii) The Requester's name, address, and convenient means of contact, such as email address, phone number, etc.
- iii) The date of the request.
- iv) A description of the Public Record requested that includes sufficient details to allow the District to identify responsive records.
- v) Whether the Requester wants to inspect records or wants copies. If the Requester wants copies, the Requester should indicate if they want the copies mailed or if they want to pick them up.

Washington Courts have recognized that oral requests for Public Records can be problematic and therefore Requestors are strongly encouraged to make written requests using written means. When a records request is made orally, the PRO shall document the request by creating a request and if an email address is provided, a confirmation will be sent to the Requestor via email. Any oral request must be made during regular business hours.

It is the Requestor's obligation to provide the District with fair notice that a PRA request has been made.

- a) Identifiable Record.** A Requester must request an "identifiable record" before the District must respond to it. An "identifiable record" is one that is existing at the time of the request and which District can reasonably locate. The Act does not require the District to guess

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what records are being requested or allow a Requestor to make "future" or "standing" (ongoing) requests for records not in existence. The District is not obligated to hold requests open for records that may be created in the future. If a public record is created after a request is received by the District, it is not responsive to the request and will not be provided. A new request must be made to obtain later created public records.

A request for all or substantially "ALL records" is not a valid request for identifiable records. The District is not required to answer questions about records, District business, or District actions, or conduct research for a Requestor.

- b) Clarification.** When receiving a request that appears to be broad in nature, the Public Records Officer may request clarification from the Requestor to ensure that the appropriate records are identified and to determine if the request can be narrowed. Clarification shall focus on information needed to identify responsive records.

If the Requestor is unable or unwilling to help narrow the scope of the documents being sought, the District may err on the side of producing more rather than fewer documents. The District shall not be obligated to decipher which specific documents may be of interest to the Requestor and the Act does not allow a Requestor to search through the District's files for records which cannot be identified or described to the District.

As part of the clarification process, the PRO may work with the Requestor to find ways to narrow the request. When a Requestor agrees to narrow a request, nothing prevents the Requestor from later expanding the request back to its original scope.

If a Requestor does not provide clarification within thirty (30) days and the entire request is unclear, the District may deem the request abandoned and closed. The District will respond to those portions of the request that, in the reasonable determination of the PRO, are clear.

- c) Requests for List of Names.** The PRA prohibits the District from producing a list of names to a Requestor who intends to use the list for commercial purposes. When a Requestor requests a list of names, the Requestor must explain the intended use of the list and will be asked

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to sign a declaration providing that the list will not be used for commercial purposes. The PRO must conduct research to confirm that the request is not for commercial purposes.

- d) **Bot Requests.** The District may deny a Bot Request that is one of multiple requests from the Requestor to the District within a twenty-four (24) hour period if it is established that responding to the request would cause excessive interference with other essential functions. "Bot request" means a request for Public Records that an agency reasonably believes was automatically generated by a computer program or script.
- e) **Creating Records.** The PRA only applies to records that exist at the time of the request. The PRA does not apply to requests for information or require the District to create a new record.

A request for information, contained in electronic databases, may be considered a request for records, if the information can be reasonably extracted to produce a record that is fully or partially responsive to the request. However, as stated above, the District is not required under the PRA to create new records to fulfill a request.

3. Response to Request

- a) **Initial Five-Day Response.** Within five (5) business days of receiving a Public Records Request, the District shall acknowledge receipt of the request and take one or more of the following actions:
 - i) Provide the records or provide notice that the records are available for inspection. If the record requested is available on the District's website, the response may include a specific link to the document;
 - ii) Seek clarification or refinement of the request if needed to identify the record requested and provide to the greatest extent possible a reasonable estimate of the time the agency will require to respond to the request if the request is not clarified.
 - iii) Indicate that the District does not have any responsive records;
 - iv) Indicate that any responsive records are exempt from disclosure and provide an exemption log of the withheld records; or
 - v) Provide a reasonable estimate of when the request can be fulfilled. For large requests that will be filled in installments, the response will also indicate when the first installment will be made. When providing a reasonable estimate of time required to fulfill a Public Records request, the PRO may take into account the time required to refine or clarify a request, locate or retrieve requested records, redact or withhold exempt records and create associated

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documentation, consult with appropriate staff or legal advisor regarding potential exemptions, and notify third parties or other agencies of requests for records of a sensitive nature consistent with the provisions of RCW 42.56.540.

vi) Deny the request, if authorized by the PRA.

Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain any changed circumstances related to the extension.

Note that in calculating five (5) business days, the following are not counted: The day the agency receives the request, Saturdays, Sundays, and holidays.

- b) **Installments.** The District may elect to provide records on an installment basis. If a Requestor does not review, claim, or pay for the records requested within the allotted timeframe, the District may deem the request abandoned and closed.
- c) **Multiple Requests by the Same Party.** In order to provide the fullest assistance to all requesters; to prevent damage to or disorganization of District records or excessive interference with other essential District functions; or to assure that the appropriate amount of District time and resources will be fairly allocated among all requests and requesters, the Public Records Officer will queue multiple, open requests from the same individual in the order they are received. Staff is not required to work on additional requests until the initial request is completed and closed. However, staff may choose to fulfill the additional requests if fulfilling them would not be unduly burdensome. The Public Records Officer may ask a requester to prioritize requests. If the requester chooses not to prioritize the Public Records Officer will provide records in the order determined by him/her or his/her designee.
- d) **Notice to Third Parties.** If records being sought contain personal information of an individual or organization, the District may notify that individual or organization to allow third parties to seek relief pursuant to RCW 42.56.540. The District may take this into account when providing an estimate for when the records will be available. Nothing in this policy is intended to create any right to such notice.

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- e) **Later Discovered Documents.** If, after the PRO has informed the Requester that they have provided all available records, the PRO becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, they will promptly inform the Requester of the additional documents and provide them on an expedited basis.
- f) **Log.** The District shall maintain a log, or run a report if applicable, of all requests maintained. This log shall be maintained pursuant to the State Retention Schedules.
- g) **Prevention of excessive interference with essential functions.** To prevent excessive interference with other essential functions of the District, and to allow the Public Records Officer and other designated District staff members the ability to perform their other assigned duties, the Public Records Officer may limit the amount of time spent on public records requests.

4. District Actions After a Request is Received

- a) **Order of Response.** Fulfillment of requests shall be processed in the order that they are received. Requests may be fulfilled out of order at the discretion of the Public Records Officer.
- b) **Locating Responsive Records.** After receiving a request, the PRO shall identify locations where records are likely to be located. The PRO will then notify the appropriate department or persons of the request and inform them of the need to search for potentially responsive records. The PRO will then coordinate with the department staff to respond to the request, as needed.

OVG staff and District officials, if applicable, will be prompt in searching for responsive records and providing them to the PRO in accordance with the timeline established by the PRO and providing documentation of their search efforts. If staff or officials are using home computers, personal devices, or personal accounts to conduct District business, those devices and accounts also need to be searched by the staff member or official for potentially responsive records. If the District's contractors performing District work have responsive public records as a consequence of a contract, they should also be notified of the records request. If staff or officials cannot provide the records by the date established by the PRO, they must inform the PRO

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of a reasonable estimate of how long it will take to provide the records.

In the case of a broad request where the Requester is unable or unwilling to help narrow the scope of the documents being sought, the PRO may provide all documents located and the search terms used to reasonably locate those documents.

- c) **Identifying Potentially Exempt Records.** The PRO is responsible for identifying records that are potentially exempt or contain potentially exempt information for all departments. The PRO or department designee may work with a legal advisor to determine if any exemption applies.
- d) **Failure to Respond.** If the District does not respond in writing within five (5) business days of receipt of the request, the Requester should consider contacting the PRO to determine whether the request has been received by the District.

5. Exemptions

- a) **Exemptions.** The PRA and other statutes exempt from or prohibit disclosure of certain Public Records. Requested records may only be withheld or redacted consistent with the law, which shall be documented for the Requestor in accordance with the requirements of RCW 42.56.210.

Some Public Records that are otherwise subject to disclosure may contain specific content that is exempt from disclosure. The presence of exempt information does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record shall be redacted prior to inspection or copying, and such redactions shall be documented. The Requestor shall be notified of the redaction in accordance with the requirements of RCW 42.56.210.

Nothing in this policy shall be construed as authorizing the copying of any other document exempt by federal or state law.

- b) **Withholding Logs and Redaction Logs.** When records are withheld or redacted, the Requestor shall be informed in writing of the statutory citation for the exemption and a brief explanation of the applicable exemption. For withheld records, the District will also provide basic

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identifying information for each withheld record including the type of record, the date the record was created, the author, and recipients, if any.

6. Inspection. Records that have not been digitized are not required to be digitized under the PRA. In the event responsive records are located and are not in electronic format, the following shall apply:

- a) Notice.** Once the PRO has collected all responsive records (or the first installment if the records are being produced on an installment basis), has reviewed the responsive records to remove exempt records and has prepared an exemption log, the PRO shall notify the Requestor that the records are available. Inspection of records shall be by appointment only with the PRO or designee.
- b) Response by Requestor.** If the Requestor does not contact the PRO to arrange for inspection of one or more of the installments of records within thirty (30) days after the date of the notice, the PRO or designee shall stop searching for the remaining records, consider the request abandoned, and close the request. At the PRO's discretion, the thirty (30) period may be extended upon Requestor's request.
- c) Protection of Records.** In order for Public Records to be protected from damage or disorganization as required by the Act, the following procedures and practices are hereby instituted:

 - i) No Public Records shall be removed from District without the PRO's permission;
 - ii) Inspection of any Public Records shall be conducted in the presence of the PRO or designee;
 - iii) No Public Record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;
 - iv) Public Records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by District staff; and
 - v) Public Records of the District may be copied only on the copying machines of the District unless other arrangements are made by the PRO.
- d) Loss of Right to Inspect.** Inspection shall be denied and the records withdrawn by the PRO if the Requestor, when reviewing records, acts

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in a manner which will damage or substantially disorganize the records, harasses, or intimidates the PRO or designee, or interferes excessively with other essential functions of the District.

- e) Requestors are urged to take timely action to prevent their requests from lapsing into an abandoned status.

7. Copies of Electronic Records. Records available in electronic format that do not require redaction may be provided in native format. Electronic records that require redaction usually cannot be produced in a native format and will be converted to paper or PDF. When requested and deemed feasible, electronic records may be converted from one format to another provided such conversion is not unduly burdensome.

8. Fee Schedule

- a) Fees shall be charged according to the fee schedule in Exhibit B. Payment of fees is required prior to release of records. If requested by a Requestor, the PRO shall provide a summary of the applicable charges before any copies are made. The Requestor may amend their public records request to reduce the applicable charges.
- b) No fee is charged for locating records, inspecting records in person, or for accessing records made available on the District's website. However, fees may apply for preparing electronic files to paper for inspection. Any fees due will be paid prior to inspection.
- c) The District declares it would be unduly burdensome to calculate the actual costs of providing copies of certain public records, due to variations in copy charges for leased copiers and variations in staff time for manual copying and mailing or uploading or electronically transmitting responsive records. Therefore, except as otherwise indicated, the fee schedule below incorporates the standard fees prescribed in RCW 42.56.120(2)(b) for providing public records other than outsourced copies or copies of large-format plans and maps.
- d) **Customized Service Charge.** Customized Access is a matter of law as noted in RCW 42.56.120. The District may assess a customized service charge for exceptionally large records requests that require staff and resources beyond what is normally available to the agency. The fee is in addition to the authorized copying costs and may include

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reimbursement for the actual costs of providing the records. A customized service charge is warranted if:

- i) Fulfilling the request requires extensive use of information technology resources to identify, locate, format, or translate a record, or provide electronic access services; or
- ii) The request requires specialized analytical, research, or supervisory assistance to identify, locate, compile, or transfer the records.

This policy does not apply to records sought under the rules of discovery in the course of litigation. If a requestor is seeking records under discovery, they need to specify this in their request. All records requests made under this policy, regardless of intended use are subject to RCW 42.56 (including the exemptions allowed under the Act).

- e) **Deposit.** The District may require a deposit up to 10% of the estimated costs. When records are being produced on an installment basis, the District may charge for each installment. The decision not to request a deposit shall not serve to waive the District's right to request a deposit for future requests. If a deposit or installment is not paid for within ten (10) days of having been notified, or if the Requestor has not contacted the PRO within this period to make arrangements to pay for the records outside of this ten (10) day period, the District is not obligated to fulfill the balance of the records request and the request may be closed.

9. Closing the File. Once all copies of requested records have been provided to the Requestor; the Requestor has inspected the requested records, or thirty (30) days have passed since the Requestor was notified that the records were available and the Requestor has failed to review the records; or the Requestor has failed to pay for the records within the ten (10) days period since the Requestor was notified of the charge, the PRO shall close the request. Upon closing the request, the PRO will provide a closing notice stating the scope of the request and memorializing the outcome of the request.

10. Administrative Review of Denial. A Requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition to the PRO that includes a copy of the redaction or exemption log or detailed description of the District's statement of withholding. The request

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for review and any relevant information shall be forwarded immediately to the District Attorney or designee, who shall consider the petition and either reverse or affirm the denial within two days of the District's receipt of the petition.

The District and the Requestor may mutually agree to a longer period of time for consideration of a petition for review. If the withholding or redaction is affirmed, the decision shall be considered the District's final action for the purposes of judicial review. If the decision to withhold or redact is reversed, the PRO shall proceed to make the subject records available to the Requestor for inspection in accordance with the provisions of this policy and procedure.

11. Retention of Records. The District is not required to retain all records it creates or uses. The Washington State Archivist has developed retention schedules for local government records including e-mail and electronic records. Records of the District shall be retained and destroyed consistent with the retention schedules, which varies depending on the content of the record. If a public records request is made at a time when a record exists, but is scheduled for destruction in the near future, the person with possession and control of the record shall retain the record until the request is resolved.

Backup copies of public records performed by information technology personnel are not a substitute for records retention. Retention is the responsibility of the sender of the record, not the backup process. Backups are for disaster recovery only and files are not individually indexed/identifiable. To avoid interference with essential government operations, and to preserve organization of government records, backup tapes will not be examined in response to a public records request.

The District is not required to retain records longer than the minimum length of time prescribed by law. In order to not artificially extend the retention period of records and/or cause disorganization of the District's records, copies of records compiled for abandoned requests will not be retained. Therefore, records compiled for abandoned requests may not be available for later submittals.

13. Disclaimer of Liability. Neither the District nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy.

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This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on the District beyond those imposed by state and federal law.

See the Washington State Attorney General's Sunshine Committee webpage for the most up-to-date list of public disclosure exemptions. It is created annually by the Code Reviser's Office.

EXHIBIT B
PUBLIC RECORDS REQUEST FEE SCHEDULE
Note: Multiple fees may apply to the same records request.

Service/Size	Unit	Proposed Fee
Records Available at No Cost		
In-Person Inspection at a District Facility	Appointments available M-F from 8:30am-5pm Appointment time slots range from 30 minutes to 1 hour	No Charge
Records on the District's Website	Direct web links to records already available on the District's website	No Charge
Paper Copies		
Standard Paper (11" x 17" or smaller)	Per side of paper	\$0.15 (1 piece of double-sided printed paper would be \$0.30)
Plotter Paper – 24" x 36" (Size D)	Per Page	\$10.00 for the first page \$1.50 for each additional page
Plotter Paper – 36" x 48" (Size E)	Per Page	\$20.00 for the first page \$3.00 for each additional page
Plotter Paper – Other Sizes	Per job requiring outsourcing	Actual cost of vendor's fees

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PUBLIC RECORDS REQUEST FEE SCHEDULE
Note: Multiple fees may apply to the same records request.

Copying Physical Records to Electronic Format		
Scanning Fee For records which do not exist in electronic format	Per scanning project if outsourced	\$0.10 per page Over 2 estimated hours or no equipment: project outsourced to a local professional scanning vendor. Vendor's actual costs will be charged

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Note: Multiple fees may apply to the same records request.

Copying Electronic Records		
Electronic Records Transmission Use of cloud-based data storage and processing service	Per Request	\$0.05 per 4 electronic files or attachments uploaded to an email, cloud storage or other electronic delivery If the total request involves fewer than 10 electronic files or attachments, the District may determine it to be de minimis and exempt the records from these fees.
Gigabyte Fee For requests with on GB or more of data	Per gigabyte (GB) of files	\$0.10 per GB
Other Records Fees		
Mailing Records	Per envelope/package	Actual cost to mail the records [includes envelope or container, postage, delivery fees, and staff time (\$1 per minute)]
Digital Records Storage Device	Per device	Actual cost of the storage device
Technical Expertise to Prepare Data Complications or Provide Customized Access to Data or Records	Per job requiring expertise	Actual cost of staff time or vendor's fees
Outsourced Copying Services from a Third-Party Vendor	Per job requiring outsourcing	Actual cost of vendor's fees

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PUBLIC RECORDS REQUEST FEE SCHEDULE
Note: Multiple fees may apply to the same records request.

Credit Card Surcharge	Per Request	Actual cost of surcharge added to any transaction paid by credit/debit card
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Deposits

If the estimated cost of producing requested records is \$30.00 or more, the District reserves the right to collect a 10% deposit of the estimated fees before beginning work on the request. After the deposit is received, staff will commence work. Once the records are available, communication will be sent to the requester for the total actual cost minus the deposit amount. The records will be provided after full payment is received. This applies whether records are produced in one installment or more.