

**RESOLUTION NO. 2017-09**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT  
SETTING PROCEDURES AND CHARGES FOR  
PUBLIC REVIEW AND COPY OF DISTRICT RECORDS**

BE IT RESOLVED by the Board of Directors of the Phelan Pinon Hills Community Services District ("District") that the following rules and regulations related to public access for inspection and copying of District records be adopted pursuant to Government Code Section 6253(e):

**Section 1.**     **General Rules.** The policy set forth below shall be used for guidance in distributing public documents and in responding to requests for information that the District may receive. It is designed to be in compliance with existing law such that any provision of this policy in conflict with existing law shall have no force or effect.

1.1. All District records and documents not deemed to be exempt under the California Public Records Act ("the Act"), California Government Code Section 6250 et seq., shall be open to the public for inspection and copying pursuant to the requirements of the Act and the procedures established herein.

1.2. Any person who wishes to inspect or copy any document or record of the District shall submit or unequivocally convey such a request to the District which reasonably and particularly describes an existing and identifiable record. The person seeking the record may, but need not, state his or her reason for making the request and/or the use to which the information will be put.

1.3. When a member of the public requests to inspect a public record or obtain a copy of a public record, the District, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall perform all of the following, to the extent reasonable under the circumstances:

(a) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;

(b) Describe the information technology and physical location in which the records exist; and

(c) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

1.4. If the District receives a request for approved minutes, publicly-posted agendas, adopted budgets, and/or other simple, routine, and otherwise readily-available

documents in the District's immediate possession, said records shall be released to the party so requesting for inspection as soon as possible. If copies thereof are requested, said records shall be released to the party so requesting as soon as possible after payment of the fee adopted by the District pursuant to Section 1.8 hereof.

1.5. All requests for records that are outside the scope of Section 1.4 hereof shall be reduced to written form. For convenience in describing the records sought, the District shall furnish the requesting party with the standard form attached hereto as **Exhibit A** and incorporated herein by this reference. However, use of that form shall not be the exclusive means by which a member of the public may identify said documents in writing. If the requesting party refuses or is unable to submit a request in writing, the District shall prepare a written memorandum articulating the request as it is understood.

1.6. Within ten (10) calendar days after receipt of a request to inspect or copy any document or record of the District identified in the writing prepared pursuant to Section 1.5 hereof, the District shall determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the District, and shall immediately notify the person making the request of such determination and the reasons therefor.

1.7. Under unusual circumstances as defined in the Act, the time limit prescribed in Section 1.6 hereof may be extended by written notice by the General Manager of the District, or his or her designee, to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than fourteen (14) calendar days.

1.8. If the District determines that the records requested shall be made available for public inspection or copying, the District shall promptly make the records available to the requesting party. If copies are requested, the District shall promptly provide copies of the records to the requesting party upon payment of a duly-adopted fee to cover the District's direct cost of duplication as calculated in the Schedule of Fees attached hereto as **Exhibit B** and incorporated herein by this reference.

1.9. If the District determines that the records requested shall not be made available for public inspection or copying, the District shall justify withholding any record by demonstrating that the record in question is exempt under the Act, that the District is unable to identify the information requested in the writing prepared pursuant to Section 1.5 hereof after making a reasonable effort to provide the assistance described in Section 1.3 hereof and elicit additional clarifying information from the requester that would help identify the record or records, or that, based on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. Any notification of denial of any request for records shall set forth the names and titles of each person responsible for the denial.

1.10. If the District determines that any part of an otherwise public record shall

not be made available for public inspection or copying, any reasonably segregable portion of the record shall be provided to the person requesting such record after deletion of the portions which are exempt by law and upon (a) compliance with Section 1.8 hereof as to the portions released to the requesting party and (b) satisfaction of Section 1.9 hereof as to the portions deleted therefrom.

1.11. The District may comply with its obligation to allow for in person examination of records or to provide copies of records by posting any public record on its website and, in response to a request for records, directing the requesting party to the location on the website where the record is posted. Any such record posted on the District's website shall be posted in an open format in compliance with Government Code Section 6253.10.

1.12 If any request for a District record relates to a record in an electronic format, the District will make the record available in any electronic format in which it holds that record or in the format requested if the requested format is one the District has used to make copies for its own use. However, the District will not release any record in electronic format if that release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained. The requesting party must pay for the District's direct cost of copying any record in an electronic format. The District may recover its programming and computer service costs if the request requires data compilation, extraction or programming to produce the record or if the record is produced at other than a regularly scheduled interval.

1.13. The District will retain in its records all written requests for inspection or copying of public records in accordance with the District's records retention guidelines.

Section 2. Special Rules for Examination. The District will provide an area at its offices for examination of its public records. Examinations may take place only during regular District business hours, must take place on District premises, and will be subject to observation by District personnel. These procedures are for the sole purpose of protecting original records against tampering or theft. Any examination of original District records will be subject to the following rules:

2.1. No document or record, or any part thereof, shall be removed from the file, notebook, folder, or other compilation in which it is contained.

2.2. No document or record shall be written on, marked on, or erased, nor shall any writing or information therein otherwise be removed; nor shall any person destroy, mutilate, deface, alter or falsify any document or record. Violations of this rule will be prosecuted pursuant to Government Code §6201.

2.3. The party examining records shall comply with all instructions of District personnel. District personnel may terminate or restrict the examination as may be necessary to

preserve District records.

Section 3. Review of Personal Electronic Devices and Personal E-Mail Accounts.

3.1. Upon receipt of a request under the Act that may involve responsive records that may have been transmitted by an employee or director through the employee's or director's personal electronic devices (including, but not limited to, a smart phone, tablet or laptop computer) or personal e-mail account, the District's General Manager shall notify any employee or director who may reasonably be expected to have any such requested records on such a personal device or personal e-mail account of the need for that employee or director to search his or her personal device(s) and personal e-mail account(s) for any records (including, but not limited to, text messages, e-mails or other electronic records) that may be housed on any such device or in any such account. Any such search will be conducted promptly upon receipt of notice from the General Manager in order to ensure the District complies with the timeframes for responding to the request in accordance with this policy. Any such search shall be conducted in good faith to be reasonably calculated to locate any responsive public records that may be housed on any such personal device or personal e-mail account, but need not be extraordinarily extensive or intrusive. Upon completion of the search of any such devices or accounts, the employee or director shall complete the declaration in the form attached hereto as **Exhibit C** that states the appropriate result from that search. The District shall provide training for all employees and directors regarding how to conduct such searches and how to differentiate and segregate public records from private records. The District shall conduct updated training at least every two years. The District shall have personnel available to assist any employee or director who requests assistance in conducting such a search.

3.2. Within forty-five (45) days of adoption of this Resolution, all directors and employees of the District shall search their personal electronic devices (including, but not limited to, a smart phone, tablet or laptop computer) and personal e-mail account(s) for any District-related records (including, but not limited to, text messages, e-mails or other electronic records) that may be housed on any such device or in any such account. Any such search shall be conducted in good faith to be reasonably calculated to locate any District-related records that may be housed on any such personal device or personal e-mail account, but need not be extraordinarily extensive or intrusive. Upon completion of the search of any such devices or accounts, the employee or director shall transmit such records to the attention of the District's Board Secretary, who will store said records in a manner deemed necessary and appropriate, and shall complete the "Initial Compliance" declaration in the form attached hereto as **Exhibit D**. From that point forward, all directors and employees of the District will exercise utmost discretion with regard to the use of personal electronic devices or e-mail accounts for District business. If a director or employee becomes aware of any particular instance in which he or she may have inadvertently created a record not in compliance with this policy, he or she is encouraged to treat the specific record proactively in accordance with this section.

3.3. The District shall incorporate into its separate electronic communications policy provisions designed to minimize the likelihood of an employee or director using his or her

personal electronic device or personal e-mail account for District business.

Section 4. Effective Date and Review. This Resolution supersedes Resolution No. 2010-11 adopted by the Board on or about March 3, 2010, and shall take effect immediately upon its adoption. This Resolution will be reviewed and revised as deemed appropriate by the District's Board of Directors.

ADOPTED this 7th day of June, 2017.

AYES: Brandon, Morrissette, Pace, Roberts, Whalen

NOES:


ABSTAIN:

ABSENT:



\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Secretary



# Phelan Piñon Hills Community Services District

4176 Warbler Rd. Phelan CA 92371 • P. O. Box 294049 • Phelan, CA 92329-4049 • (760) 868-1212 Fax (760) 868-2323

## Exhibit A REQUEST FOR INSPECTION / COPIES OF PUBLIC RECORDS\* (Government Code Sec. 6253 b)

"Except with respect to public records exempt from disclosure by express provisions of law, each State or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so." (Government Code Sec. 6253.b)

Request for a copy of public record identified below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

I would like to receive the public record identified above by the following method:  
(fees apply for certain delivery methods – see schedule of fees)

- Pick-up    Fax    U.S. Mail    E-Mail    USB Drive    CD ROM

### OFFICE USE ONLY

PAPER COPIES:

Estimated No. of Letter/Legal Size

Pages: \_\_\_\_\_

Estimated No. of Ledger Size (11x17")

Pages: \_\_\_\_\_

Estimated No. of Misc. Size (maps, etc)

Pages: \_\_\_\_\_

Estimated Total Cost: \_\_\_\_\_

ELECTRONIC COPIES:

USB Drive: \_\_\_\_\_

CD ROM: \_\_\_\_\_

E-Mail: No Charge

DELIVERY METHOD:

Pick-up: No Charge

E-Mail: No Charge

U.S. Mail: \_\_\_\_\_

U.S. Mail Certified: \_\_\_\_\_

DATE PROMISED: \_\_\_\_\_

PICKED UP/MAILED ON: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

PICKED UP/MAILED BY: \_\_\_\_\_



# Phelan Piñon Hills Community Services District

4176 Warbler Rd. Phelan CA 92371 • P. O. Box 294049 • Phelan, CA 92329-4049 • (760) 868-1212 Fax (760) 868-2323

## Exhibit B REQUEST FOR INSPECTION / COPIES OF PUBLIC RECORDS SCHEDULE OF FEES

(Government Code Sec. 6253 b)

“Except with respect to public records exempt from disclosure by express provisions of law, each State or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.” (Government Code Sec. 6253.b)

Color Copy (Letter 8.5"x11" or Legal 8.5"x14")	\$0.10/page
Black & White Copy (Letter 8.5"x11" or Legal 8.5"x14")	\$0.05/page
Color Copy (Ledger 11"x17")	\$0.20/page
Black & White Copy (Ledger 11"x17")	\$0.10/page
Maps/Charts (24"X36") Color or Black & White	Actual Cost
Affidavit to Certify Copy(ies)	\$10 each
Standard Envelope	\$0.05 each
Large Envelope	\$0.50 each
Postage	Actual Cost
Certified Mail	Actual Cost
CD ROM*	\$1.50 each
USB Drive*	\$2.50 each
E-Mail Copies	No Charge

\*The District is unable to accept customer-provided CD ROMs or USB Drives due to security risks.



# Phelan Piñon Hills Community Services District

4176 Warbler Rd. Phelan CA 92371 • P. O. Box 294049 • Phelan, CA 92329-4049 • (760) 868-1212 Fax (760) 868-2323

## Exhibit C FORM OF DECLARATION

I, \_\_\_\_\_, hereby declare as follows:

1. I have personal knowledge of the matters set forth in this declaration.
2. I am currently serving as the \_\_\_\_\_ [state employee or director's position] of Phelan Piñon Hills Community Services District ("District").
3. On \_\_\_\_\_, 20\_\_\_\_, I received notice of the need to search my personal electronic device and personal e-mail account for documents that may be responsive to a Public Records Act request the District received from \_\_\_\_\_ [insert name of requesting party] (the "Request").
4. I have, with reasonable diligence, searched all of my personal electronic devices and personal e-mail accounts (that is, those accounts which are not housed on a District server), including, but not limited to, my \_\_\_\_\_ [describe the devices searched] and my e-mail address of \_\_\_\_\_ [insert all personal e-mail accounts that were searched] and have provided all public records responsive to the Request to the responsible District employee.

[OR]

4. I have, with reasonable diligence, searched all of my personal electronic devices and personal e-mail accounts (that is, those accounts which are not housed on a District server), including, but not limited to, my \_\_\_\_\_ [describe the devices searched] and my e-mail address of \_\_\_\_\_ [insert all personal e-mail accounts that were searched] and did not locate any public records on such devices or accounts that were responsive to the Request.

[CONTINUE]

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Dated: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[insert name]



**Exhibit D**

**Form of Initial Compliance Declaration**

I, \_\_\_\_\_, hereby declare as follows:

1. I have personal knowledge of the matters set forth in this declaration.
  
2. I currently am serving as the \_\_\_\_\_ [state employee or director's position] of Phelan Pinon Hills Community Services District ("District").
  
3. I have, with reasonable diligence, searched all of my personal electronic devices and personal e-mail accounts (that is, those accounts which are not housed on a District server), including, but not limited to, my \_\_\_\_\_ [describe the devices searched] and my e-mail address of \_\_\_\_\_ [insert all personal e-mail accounts that were searched] for all documents related to District business and have provided all such public records to the designated District employee for storage.

[OR]

3. I have, with reasonable diligence, searched all of my personal electronic devices and personal e-mail accounts (that is, those accounts which are not housed on a District server), including, but not limited to, my \_\_\_\_\_ [describe the devices searched] and my e-mail address of \_\_\_\_\_ [insert all personal e-mail accounts that were searched] and for all documents related to District business and did not locate any such public records.

[CONTINUE]

4. I hereby certify that I have complied, and will comply, in good faith with my obligations under Section 3.2 of District Resolution No. 2017-07.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[insert name]