

**RESOLUTION 2009-5-1**

**BMR METROPOLITAN DISTRICT**

**DOUGLAS COUNTY, COLORADO**

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**A RESOLUTION ADOPTING A POLICY CONCERNING ACCESS TO THE  
PUBLIC RECORDS MAINTAINED BY THE DISTRICT**

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**RECITALS**

**WHEREAS**, the BMR Metropolitan District (“District”) is a special district organized and existing pursuant to Section 32-1-101, *et seq.*, C.R.S., (the “Special District Act”); and

**WHEREAS**, as a quasi-municipal corporation and political subdivision of the State of Colorado the District is subject to the Colorado Open Records Act, Section 24-72-201, *et seq.*, C.R.S., (“CORA”); and

**WHEREAS**, the purpose of CORA is to facilitate open government and the need to strike a balance between the statutory right of members of the public to inspect and copy public records and the administrative burdens that may be placed upon political subdivisions of the State in responding to such requests; and

**WHEREAS**, the District’s Board of Directors desires to adopt a policy that will comply with CORA and address the appropriate balance between disclosure of public records and protection of the District from the administrative burdens that may be placed upon the District in responding to such requests.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors (“Board”) of the BMR Metropolitan District, Douglas County, Colorado as follows:

1. **Adoption of Open Records Policy.** The Policy of the BMR Metropolitan District dated May 1, 2009, as attached hereto as Exhibit A and incorporated herein by this reference is hereby approved and adopted effective as of May 5, 2009, as the Open Records Policy for the District.

2. **Interpretation.** The Board in consultation with its legal counsel and manager, reserves the right to interpret and change or resend the adopted Policy at any time and in addition, reserves the right to determine the meaning, purpose and effect of the Policy based upon generally accepted rules of interpretation.

3. **Severability.** If any part or provision of this Resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution, it being the Board's intention that the various provisions hereof are severable.


4. **All Acts, Orders and Resolutions.** All acts, orders and resolutions or parts thereof of the Board which are inconsistent or in conflict with this Resolution, are hereby repealed to the extent only of such inconsistency or conflict.

5. **Prior Policy Superseded.** As of the effective date set forth below, the Open Records Policy as hereby adopted shall supersede any previously adopted open records policy of the District.


6. **Effective Date.** The provisions of this Resolution shall take effect as of May 5, 2009.

ADOPTED on the 5<sup>th</sup> day of May 2009, and EXECUTED by the Board of Directors of the BMR Metropolitan District on this 2<sup>nd</sup> day of June, 2009.

BMR METROPOLITAN DISTRICT

By:   
Jeanne E. Dassel, President

Attest:

  
Robert Brabec, Secretary/Treasurer

Alan B. Coos

## EXHIBIT A

### **BMR METROPOLITAN DISTRICT POLICY CONCERNING ACCESS TO PUBLIC RECORDS**

#### **Policy Statement**

Pursuant to the Colorado Open Records Act ("CORA") public records are to be open for inspection by individuals at reasonable times, upon request, unless exempted under CORA.

As a quasi-municipal corporation and political subdivision of the State of Colorado, the BMR Metropolitan District ("BMR") recognizes the importance of complying with state law regarding public records and the importance of creating an environment of openness with respect to the public records it maintains.

This policy is intended to balance the public rights to inspect BMR's public records with BMR's need to protect its records and prevent unnecessary interference with its regular duties in responding to requests.

#### **Procedures**

1. Custodian of Records

(a) BMR's management company, currently R.S. WELLS, LLC., shall serve as the official custodian of all BMR public records.

2. Requesting Open Records

(a) A copy of the request will be promptly forwarded to legal counsel. All requests should be addressed to the MANAGER FOR BMR, R.S. Wells, LLC., 8390 E Crescent Parkway, Suite 500, Greenwood Village, CO 80111. A copy of the request will be forwarded to Counsel.

(b) All requests must be made in writing. Faxed or e-mailed requests will not be accepted. The date the request is received by the Manager will constitute the "date of receipt" for timing purposes.

(c) All requests must be reasonably specific as to the records sought and the relevant dates. When possible, requests for correspondence must identify the parties to the correspondence. For any request that is vague or broadly stated the custodian may require the requestor to provide a more specific request.

(d) The request for records will take priority over previously scheduled work activities or duties of BMR Manager.

(e) BMR reserves the right to access a reasonable research fee of \$20.00 per hour, or portion thereof in 10 minute increments for research and retrieval services of requested

documents above and beyond the costs for copies of any requested documents as identified in paragraph 4(d).

(f) The custodian is not required by the Open Records Act to create or construct a document that does not exist.

### 3. Responding to Requests for Open Records

Inspection of the following records shall not be permitted:

(a) If upon consultation with legal counsel, it is determined that inspection would be contrary to any state statute, federal statute or regulation issued thereunder or is prohibited by rules promulgated by the order of any Court;

(b) Communications from or between the BMR attorneys or other special counsel should not be released to any individuals other than those to whom the communication was directed without the consent of the attorney who wrote the communication.

(c) If after consultation with legal counsel, in the opinion of the records custodian, disclosure of the contents of any public record would do substantial injury to the public interests. Notwithstanding the fact that said record might otherwise be available for inspection under the provisions of this policy, the records custodian must deny access to such public record, and at the direction of the Board of Directors, legal counsel may apply to the Douglas County District Court for an Order permitting the records custodian to restrict such disclosure.

(d) If the public records requested are not in the custody or control of the records custodian, the applicant may request a written statement explaining the reasons for the absence of the records from such custodian, custody or control, their location and what person has custody or control of the records.

(e) If the public records requested are in the custody and control of the records custodian, but are in active use or in storage and, therefore, not available at the time an applicant requests to examine them, the applicant may request a written statement to that effect. Upon written request of the applicant specifying exactly what documents are being requested, the custodian shall set a date and hour, within the following three (3) full working days unless extenuating circumstances exist, at which time the records will be available for inspection. In the event extenuating circumstances exist as defined in CORA, the custodian shall have seven (7) full working days to produce the records. Unless extenuating circumstances exist, BMR will make reasonable efforts to ensure the records are available for inspection within three (3) business days of receiving the request.

(f) If the requested records contain information that is partially open to inspection and partially exempt from inspection BMR may withhold the record altogether or redact the exempted information and provide the record(s) for inspection.

(g) Once the records have been located and reviewed, BMR will notify the requestor that the records are available for inspection.

#### 4. Inspection of Records

(a) Once the requestor is notified that the records are available for inspection, the requestor must contact BMR within five business days to arrange a date, time, and place to inspect the records. If within five business days the requestor fails to schedule a time for inspection the request will be considered abandoned.

(b) Records will be available for inspection during BMR's normal business hours of 9:00 AM to 5:00 PM, Monday through Friday.

(c) Only the requesting party or that party's designee will be allowed to inspect the records.

(d) The requestor may obtain copies of the requested records at a cost of \$0.25 per page, or for documents in non-standard formats, the actual duplication costs. Payment must be received in advance of releasing requested copies.

(e) The records will be maintained by BMR for forty-eight hours after the scheduled inspection time at which point the records will be returned to their point of origination.

(f) If the requesting party is unable to inspect the public records on the date scheduled, the requestor must inform BMR and reschedule a date and time to inspect the records within forty-eight hours of the original scheduled time, or the request will be considered abandoned.

(g) Once a request is considered abandoned, the requestor must submit a new request.

BMR Metropolitan District