

RESOLUTION NO. 7-20

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF MANCHESTER ADOPTING RULES
FOR PUBLIC INSPECTION AND COPYING OF PUBLIC
RECORDS**

WHEREAS it is the policy of the Port, pursuant of Washington's Public Disclosure Act as codified in Chapter 42.56 RCW, to ensure the public has free and unfettered access to the Port's public records, except as expressly exempted by appropriate Washington statutes, pursuant to the terms of this resolution, and

WHEREAS the purpose of this resolution is to provide procedure and rules for the public and the Port to follow, in the identification and release of all nonexempt Port public records as may be requested by members of the public, Now, therefore,

IT IS HEREBY RESOLVED by the Commissioners of the Port of Manchester ("Port"), that the following are adopted as the rules and procedures of the Port governing public inspection and copying of its public records and an appeal process when document requests are denied, as established by Chapter 42.56 RCW and Washington law:

1. **PUBLIC RECORDS AVAILABLE.** All public records of the Port are deemed to be available for public inspection and copying, except as otherwise provided by applicable Washington law and the terms of this resolution.

Pursuant to RCW 42.17.020(41), the Port's public records consist of any writings relating to the conduct of the Port, or the performance of its functions which are owned, used, or retained by the Port, regardless of format. Provided, however, the following records are exempted from public disclosure:

A. **Public personnel information.** Pursuant to RCW 42.56.230(2), personal information in files maintained for employees or independent contractors shall not be disclosed to the extent they would violate the person's statutorily protected right to privacy.

B. **Real Estate Appraisals and Negotiations.** Pursuant to RCW 45.56.260, the contents of any real estate appraisals made for the Port relative to the purchase or sale of any real property shall not be disclosed until the earlier of three years from the appraisal's date or such time as the contemplated transaction has been completed.

C. **Preliminary Records.** Pursuant to RCW 45.56.280, preliminary drafts, notes, recommendations, and intra-Port memorandums in which opinions

are expressed or policies formulated or recommended are exempt, except in such cases where the record in question is publicly cited by the Port in conjunction with Port action.

D. Security sensitive information. Pursuant to RCW 42.56.420, information relating to the security of Port property, systems and personnel is exempt from public inspection; and

E. Other Records protected by Statute. Other records as referenced in this resolution and/or Washington law that are protected and exempt from public disclosure by law shall not be subject to public inspection.

2. PUBLIC RECORDS OFFICER. The Port's Contract Administrator, Dennis O'Connell is designated as person in charge of the Port's public records. In the event that he cannot so act, then Ronald E. Thompson, attorney at law is so designated as the alternate person in charge. He shall be responsible for implementation of the Port's rules regarding release of public records, and insuring compliance with the public records disclosure requirements of Chapter 42.56 RCW.

3. HOURS FOR RECORDS INSPECTION AND COPYING. Public records shall be available for inspection and copying on appointment only by calling the Public Records Officer's office at 253-853-7449.

4. REQUEST FOR PUBLIC RECORDS. In accordance with the requirements of Chapter 42.17 and 42.56 RCW directing that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the Port, public records may be inspected or copied or copies of such records obtained by members of the public, upon compliance with the following procedures:

A. Request Form. A request shall be made in writing upon the form prescribed by the Port (identified on "**EXHIBIT A**" of this Resolution) which will be available at its office. The completed form shall be presented to the Port's Contract Administrator or Attorney/Auditor and by appointment only by calling 360-871-0500. The request shall include the name of the person requesting the record ("requestor"), contact information regarding the requestor, date the request was made, nature of the request, and an appropriate description of the public records(s) requested, including, if reasonably possible, title, subject matter, document date, and any other means to aid the Port in identifying and making the same available.

B. Port Assistance to Requestor. In all cases in which a member of the public makes a public document request it shall be the obligation of the person to whom the request was made to assist the member of the public in appropriately identifying the public records requested. The person to whom the request was made shall refer the member of the public to the Contract Administrator or to the Attorney/Auditor for the Port. In the event the record(s) cannot be identified, the Port shall so advise the requestor and, in the case of a formal request having been made, return the formal request for

resubmission with additional description of the requested records necessary for the Port Attorney/Auditor to locate the same.

C. **Notification if Records not readily Available.** Public records requested may not be easily available for immediate inspection. If the requested document(s) is/are not readily available, the requestor shall be notified as to the approximate date they should be available and the reason for the delay. Such notification shall occur no later than five (5) business days after the request if initially made, provided that the Port attorney/auditor has received the request and is not on vacation or absent for medical reasons. In such cases, the notification shall occur no later than five (5) business days after the Port attorney/auditor has returned to his office.

5. **COPYING OF PUBLIC RECORDS.** The Port attorney/auditor may charge a fee of not more than \$25 per hour for an inspection of the public records. The attorney/auditor shall charge the requestor for making copies of public records; for his staff time in making copies; and for postage and mailing container costs, as follows:

A. **Copy Charge.** Per page copy charge: TWENTY CENTS (\$0.20)

B. **Labor Costs.** Twenty Five Dollars (\$25.00) an hour billed in ½ hour increments.

C. **Postage / Mailing Containers.** Actual postage plus the cost to the Attorney/Auditor of any mailing containers/envelopes.

All above fees and expenses shall be paid by the requestor to the Port attorney/auditor prior to delivery of the public records. .

6. **DETERMINATION OF PUBLIC RECORDS EXEMPTION STATUS.**

A. **Determination if exemption applies.** The Port Attorney/Auditor, and if an appeal be made, the Port Board of Commissioners reserve(s) the right to determine if any records requested, in accordance with the procedures outlined in Section 4 hereof, are exempt from public inspection under the provisions of Chapter 42.56 RCW, the statutes cited in Section 11 hereof, and/or other applicable Washington law.

B. **Privacy Concerns – Deletion of Identifying Details.** In addition, pursuant to RCW 42.56.070 (1), the Port reserves the right to delete identifying details when it make available or publishes any public record, in any situation when there is reason to believe disclosure of such details would be an invasion of an individual's privacy rights protected by Chapter 42.56 RCW. The Port Attorney/Auditor shall justify such deletion in writing to the requestor.

C. **Written explanation of Denials.** All denials or requests for Port records by the Port shall be accompanied by a written statement to the requestor specifying the reason(s) for the denial, including a statement of the specific statutory exemption(s)

authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

7. **REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS**

A. **Finality of Request Denial.** A public records request denial shall not be deemed final until the requestor has first appealed the Port Attorney/Auditor's decision to the Port Board of Commissioners. The appeal request: shall be in writing; shall be delivered to the President of the Port Commissioners at his or her home address of record within ten (10) days of the requestor being notified of the denial; and it shall concisely explain his or her reasoning as to why the denial was improper. Failure by the requestor to deliver his/her appeal within the ten (10) day time period shall be deemed an acceptance by him/her of the Port Attorney/Auditor's denial decision.

B. **Final Determination by Board of Commissioners.** Upon receiving a timely appeal, the Board of Commissioners shall consider the matter at its next regularly scheduled Board of Commissioners meeting and take one of the following actions: affirm the earlier denial; reverse the earlier decision to deny access. In any case, the requestor shall be notified of the Board's decision and the reason(s) therefore, within five (5) business days following the Board's decision. Upon receiving an unfavorable decision from the Board of Commissioners, the requestor shall then have the ability to seek judicial review of the decision.

8. **RECORDS INDEX.** In compliance with RCW 42.15.070 (4) regarding maintenance of an index to Port records, it is hereby deemed unduly burdensome to the Port, and unnecessary to assist members of the public in locating records for which inspection and/or copying is/are sought, for the Port to create and maintain an index of all its public records. The Port is sufficiently small that if the requestor notifies the Port of the type of record(s) it seeks, the Port should be able to quickly identify and supply such records(s).

9. **RECORD REQUEST FORM.** The Port hereby adopts for use by all persons requesting inspection and/or copies of records, the form attached hereto on **Exhibit A** and by this reference hereby incorporated herein, entitled "Request for Public Records." Prior to the Port acting upon any request, the form shall be fully completed and returned to the Port's Attorney/Auditor or his designee. Upon approval of any request, before copies are delivered to the requestor, he or she must first pay all Port Attorney/Auditor charges as identified in Section 5 above.

10. **RECORDS PRESERVATION.** In order that the Port's records may be adequately protected and maintained in an organized fashion, when a member of the public seeks to personally review any Port records, the following rules shall be observed:

A. No original Port records shall be removed from Port offices;

B. Inspection of all requested Port public records shall be conducted in the presence of a designated Port agent;

C. No Port public record may be marked, altered in any fashion, or defaced in any manner during inspection;

D. Records which are maintained in a file or jacket or in chronological order may not be dismantled except for purposes of copying, and then only by the Port attorney/auditor or his designee.

E. Access to file cabinets, shelves, vaults and other Port storage area is restricted solely to Port personnel authorized to access such file cabinets, etc,;

F. The Port Attorney/Auditor or designee may, at any time limit inspection and copying to the extent necessary to prevent such activity from unreasonably disrupting his operations.

11. EXEMPTIONS TO PUBLIC DISCLOSURE. In addition to other document exemptions identified in this Resolution, information concerning any of the following areas contained in Port documents, in whatever form, is/are exempt from Public Disclosure:

A. Attorney/Client privilege RCW 5.60.060.

B. Criminal background checks RCW 43.43

C; Criminal Records Privacy Act RCW 10.97

D. Uniform Health Care Information Act (medical records) RCW 70.02

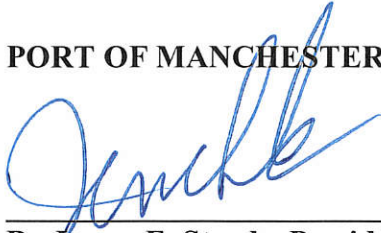
E. The American with Disabilities Act (medical records) 42USC § 12112;

and

F. Alcohol and drug abuse patient records. RCW 70.96, 42 CFR § 2.1

THIS RESOLUTION WAS CONSIDERED AND ADOPTED at a regular meeting of the Board of Commissioners of the Port of Manchester on the ____ day of January, 2020.

PORT OF MANCHESTER



By **James E. Strode, President**



By **Dan Fallstrom, Vice-President**



By **Robert Ballard, Secretary**

EXHIBIT A

Return To:
Manchester Port District
PO Box 304
Manchester, WA 98353

PORT OF MANCHESTER
REQUEST FOR PUBLIC RECORDS

Date: _____

Full name(s) of Requesting person(s) _____
Mailing Address _____
Contact Phone Number _____

Description of Records sought (Please be as specific as possible as to what you seek to aid Port personnel in identifying and locating pertinent records.

I, the above identified person(s) certify that the information obtained through this Request for Public Records will not be used for commercial or illegal purposes.

Signature: _____ Signature _____

FOR PORT USE ONLY:

Date and Time Request Received by Port: Date: _____ Time: _____

Action Taken on Request and Reason taken on action if request denied in whole or part:

Name of Person Taking Action: _____

Date Action Taken: _____

Time to Copy _____
Number of Copies _____
Total Copy Charge _____ @ 20 cents per page
Total Time Charge _____ @ \$25 per hour or fraction thereof
TOTAL CHARGE _____