RESOLUTION NO. _____

A RESOLUTION ADOPTING A GOVERNMENT RECORDS ACCESS AND MANAGEMENT POLICY AND RELATED REGULATIONS FOR SOUTH DAVIS FIRE DISTRICT.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF SOUTH DAVIS FIRE DISTRICT:

1. Adoption. The following is hereby adopted as the Records Access and Management Policy and Regulations of South Davis Fire District:

SOUTH DAVIS FIRE DISTRICT

DISTRICT RECORDS ACCESS AND MANAGEMENT REGULATIONS

Section 1. Purpose. In enacting this policy, it is the purpose and intent of the Board of Trustees to adopt a policy acknowledging and complying with the Government Records Access and Management Act as contained in Chapter 2 of Title 63 of the Utah Code Annotated 1953, as amended, (hereinafter referred to as the Act), and specifically to conform with Section 63-2-701 of the Act which provides that the District may adopt a policy relating to information practices of the District including classification, designation, scheduling, access, denials, segregation appeals, management, retention and amendment of records.

Section 2. Compliance with State Law. In enacting this policy the Board of Trustees hereby adopts and incorporates by reference the following provisions of the Act as part of this policy and regulations as though fully set forth herein. Any inconsistency or conflict between this policy and the following referenced statutes of the State of Utah shall be governed by the statute.

General Provisions

63-2-102 Legislative intent
63-2-103 Definitions
63-2-104 Administrative Procedures Act not applicable
63-2-105 Confidentiality agreements

Access to Records

63-2-201 Right to inspect records and receive copies of records
63-2-202 Access to private, controlled and protected documents
63-2-205 Denials
63-2-206 Sharing records

Classification

63-2-301 Records that must be disclosed
63-2-302 Private records
63-2-303 Controlled records
63-2-304 Protected records
63-2-305 Procedure to determine classification
63-2-306 Duty to evaluate records and make designations and classifications
63-2-307 Segregation of records
63-2-308 Business confidentiality claims

Confidential Treatment of Records

63-2-405 Confidential treatment of records for which no exemption applies

Accuracy of Records

63-2-601 Rights of individuals on whom data is maintained
63-2-602 Disclosure to subject of records - Context of use

Applicability to Political Subdivisions

63-2-701 Political subdivisions to enact ordinances in compliance with chapter

Remedies

63-2-801 Criminal penalties
63-2-802 Injunction - Attorneys' fees
63-2-803 No liability for certain decisions of a governmental entity
63-2-804 Disciplinary action

Archives and Records Service

63-2-903 Duties of governmental entities
63-2-905 Records declared property of the State - Disposition
63-2-907 Right to replevin

Section 3. Additional Definitions. As used in this policy, certain words and terms are defined as follows:

A. "Act" shall refer to the Government Records Access and Management Act, Chapter 2 of Title 63 of the Utah Code Annotated 1953, as amended.

B. "Computer software program" means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any

associated documentation, manuals, or other source material explaining how to operate the software program. "Software" does not include the original data or record which is manipulated by the software.

C. "Controlled records" shall be those defined as controlled under the provisions of this policy and in accordance with the provisions of the Act.

D. "Data" shall refer to individual entries (for example, birth date, address, etc.) in records.

E. "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.

F. "District" shall mean South Davis Fire District.

G. "Non-public records" shall refer to those records defined as private, controlled, or protected under the provisions of this policy and the Act.

H. "Private records" shall refer to those records classified as private under the provisions of this policy and the Act.

I. "Protected records" shall refer to those records classified as protected under the provisions of this policy and the Act.

J. "Public records" shall refer to those records which have not been classified as non-public in accordance with the provisions of this policy and the Act.

K. 1. "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the District where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.

2. "Record" does not mean:

a. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom he or she is working;

b. Materials that are legally owned by an individual in his or her private capacity;

c. Materials to which access is limited by the laws of copyright or patent;

d. Junk mail or commercial publications received by the District or by an officer or employee of the District;

e. Books and other materials that are catalogued, indexed, or inventoried and contained in the collections of county libraries open to the public, regardless of physical form or characteristics of the material;

f. Personal notes or daily calendars prepared by any District employee for personal use or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting closed pursuant to the Utah Open Meetings Act; or

g. Proprietary computer software programs as defined above that are developed or purchased by or for the District for its own use.

Section 4. Public Access to Records.

A. Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the District, of all District governmental records defined as "public" under the provisions of this policy, upon the payment of the lawful fee and pursuant to the provisions of these regulations, the Act, and policies and procedures developed hereunder.

B. The District has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When a record is temporarily held by a custodial District agency, pursuant to that custodial agency's statutory functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this policy. The record shall be considered a record of the District and any requests for access to such records shall be directed to the District, rather than the custodial agency, pursuant to these procedures.

Section 5. Public, Private, Controlled, Protected Records.

A. Public records shall be those District records as defined in Section 63-2-201 of the Act and as classified and defined in procedures established pursuant to this policy. Public records shall be made available to any person. All District records are considered public unless they are (1) expressly classified

otherwise in accordance with policies and procedures established by this policy; (2) are so classified by the Act; or (3) are made non-public by other applicable law.

B. Private records shall be those District records classified as "private", as defined in Section 63-2-302 of the Act and as classified and defined in procedures established pursuant to this policy. Private records shall be made available to the following persons: the subject of the record, the parent or legal guardian of a minor who is the subject of the record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has power of attorney or a notarized release from the subject of the record or his or her legal representative, or any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

C. Controlled records shall be those District records classified as "controlled", as defined in Section 63-2-303 of the Act and as classified and defined in procedures established in this policy. Controlled records shall be made available to a physician, psychologist, or licensed social worker who submits a notarized release from the subject of the record or any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.

D. Protected records shall be those District records classified as "protected", as defined in Section 63-2-304 of the Act and as classified and defined in procedures established in this policy. Protected records shall be made available to the person who submitted the information in the record, to a person who has power of attorney or notarized release from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.

Section 7. Privacy Rights.

A. The District recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records.

B. The District may, as determined appropriate by the Manager, notify the subject of a record that a request for access to the subject's record has been made.

C. The District may require that the requester of records provide a written release, notarized within thirty (30) days before request, from the subject of the records in question before access to such records is provided.

Section 8. Designation, Classification and Retention. All District records and records series, of any format, shall be classified and scheduled for retention according to the provisions of the Act and this policy. Any records generated in the future shall also be so classified and scheduled for retention. Records classification and scheduling for retention shall be conducted under the supervision of the District Records Officer. The District shall by resolution establish a retention schedule for all District records and records series. The initial retention schedule shall be as set forth in Appendix A attached hereto.

Section 9. Procedures for Records Request.

A. Under circumstances in which the District is not able to immediately respond to a records request, the requester shall fill out and present to the District a written request on forms provided by the District. The date and time of the request shall be noted on the written request form and all time frames provided under this policy shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.

B. The District may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures.

C. 1. In most circumstances and excepting those eventualities set out below, the District shall respond to a written request for a public record within 10 business days after that request.

2. Extraordinary circumstances shall justify the District's failure to respond to a written request for a public record within 10 business days and shall extend the time for response thereto to that time reasonably necessary to respond to the request, as determined by the District Manager. Extraordinary circumstances shall include but not be limited to the following:

a. Some other governmental entity is currently and actively using the record requested;

b. The record requested is for either a voluminous quantity of records or requires the District to review a large number of records or perform extensive research to locate the materials requested;

c. The District is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

d. The request involves an analysis of legal issues to determine the proper response to the request;

e. The request involves extensive editing to separate public data in a record from that which is not public; or

f. The request requires computer programming or other manipulation of data in order to provide the information.

3. When a record request cannot be responded to within 10 days, the District Manager shall give the requester an estimate of the time required to respond to the request.

D. The failure or inability of the District to respond to a request for a record within the time frames set out herein, or the District's denial of such request, shall give the requester the right to appeal as provided herein in Section 11.

Section 10. Fees. The District may charge a reasonable fee to cover the District's costs of duplicating and compiling records requested by any person. The fees may be set and amended by resolution from time to time. The initial fee, until changed by resolution, is set forth in Appendix A attached hereto. The District may fulfill a record request without charge when it determines that:

A. Releasing the record primarily benefits the public rather than a person;

B. The individual requesting the record is the subject of the record; or

C. Requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

The District may not charge a fee for reviewing a record to determine whether it is subject to disclosure or for inspecting a record.

Section 11. Appeals.

A. Any person aggrieved by the District's classification of a record or by the District's response to a record request may appeal the determination within 30 days after notice of the District's action to the District Manager by filing a written notice of appeal. The notice of appeal shall contain the petitioner's name, address, phone number, relief sought and shall set forth in detail a statement of the facts, reasons and legal authority relied upon in making the appeal.

B. If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an

individual, the District Manager shall send a notice of the requester's appeal to the affected person.

C. The District Manager shall make a determination on the appeal within 30 days after receipt of the appeal. During this 30 day period, the District Manager may schedule an informal hearing or request any additional information deemed necessary to make a determination. The District Manager shall send written notice to all participants providing the District Manager's determination on the appeal and the reasons therefor.

D. In addition, if the District Manager affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the Board of Trustees within 30 days after date of the District Manager's decision.

E. Any person aggrieved by the District Manager's decision may file a written notice of appeal to the Board of Trustees which appeal shall thereafter be scheduled by the District for hearing at a regular or special meeting of the Board of Trustees. The final decision of the Board of Trustees shall be by majority vote of a quorum of the Board of Trustees. The Board of Trustees shall prepare a written decision indicating the Board's determination of the appeal and the reasons therefor. A copy of the written decision shall be sent to all parties to the appeal.

F. If the Board of Trustees affirms the denial, in whole or in part, the person may petition for judicial review in District Court as provided in Section 63-2-404 of the Act.

Section 12. Record Amendments. Government records held by the District may be amended or corrected as needed. An individual may contest the accuracy or completeness of any public, or private, or protected record concerning him or her by submitting a written request to the District to amend the record. However, this Section does not affect the right of access to private or protected records. The request shall contain the requester's name, mailing address and daytime telephone number and a detailed statement explaining why the District should amend the record. The District shall issue a decision either approving or denying the request to amend no later than 60 days after receipt of the request and shall inform the requester in writing of its decision. The requester may appeal the denial of the request to amend a record pursuant to the provisions contained herein regarding appeals. This Section does not apply to records relating to title to real or personal property, judicial case files, or any other records that the District determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

Section 13. Penalties.

A. Any District employee who knowingly refuses to permit access to records in accordance with the Act and this policy, who knowingly permits access to non-public records, or who knowingly, without authorization or legal authority, disposes of, alters, or removes records or allows other persons to do so in violation of the provisions of the Act, this policy, or other law or regulation, may be subject to criminal prosecution and disciplinary action, including termination.

B. In accordance with the Act, neither the District nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

Section 14. Records Officer.

There shall be appointed a District Records Officer to oversee and coordinate records access, management and archives activities. The Records Officer shall make annual reports of records services activities to the District Manager.

Section 15. Records Maintenance.

A. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve appropriate District records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of District records. The Records Officer shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records.

B. All District records shall remain the property of the District unless federal or state legal authority provides otherwise. Property rights to District records may not be permanently transferred from the District to any private individual or entity, including those legally disposable obsolete District records. This prohibition does not include the providing of copies of District records otherwise produced for release or distribution under this policy.

C. Custodians of any District records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the District Records Officer.

2. Effective Date. This policy shall become effective immediately upon its passage.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF SOUTH DAVIS FIRE DISTRICT, STATE OF UTAH, on this 30th day of NOVEMBER 1992.

SOUTH DAVIS FIRE DISTRICT

BY: _____
Chairman

ATTEST:

_____
Clerk

APPENDIX A

FEES

Copy Cost per page	$1.00
Certified copies per page	$3.00
Compilation time per hour	$8.00

RETENTION SCHEDULE

The Retention Schedule of the District is the schedule promulgated by the Utah Division of Archives and Records Service for local governments with the following amendments: