BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LEWIS COUNTY, WASHINGTON

RE: Rescinding Lewis County Policies 08-208 & 08-209 and establishing an Updated Public Records Request Policy	) Resolution #18-055))

WHEREAS, each agency must adopt and enforce reasonable rules or regulations to protect public records from damage or disorganization and to prevent excessive interference with essential agency functions while also providing full access to public records as described in the Public Disclosure Acts; and

WHEREAS, Lewis County's Policies regarding the Public Disclosure Act are found in Resolution 08-208 & 08-209, and Lewis County desires to replace those policies with the policy attached and incorporated herein by reference

BE IT RESOLVED,

Section 1. Replacement of Resolutions 08-208 & 28-209. Resolutions 08-208 & 08-209 are hereby superseded and repealed and are replaced by this Resolution and the attached Policy regarding the Public Disclosure Act.

Section 2. Modification, The Lewis County Board of County Commissioners reserve the right to modify this resolution and any document attached herewith.

Section 3. Severability. If any section, sentence, clause, or phrase of this Resolution should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of the Resolution.

Section 4. Effective Date. This Resolution shall go into effect immediately upon adoption.

DONE IN OPEN SESSION, this 29th day of January 2018.

APPROVED AS TO FORM:
JONATHAN MEYER
LEWIS COUNTY PROSECUTOR

Senior Deputy Pros. Attorney

ATTEST:

Rieva Lester, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Edna J. Fund, Chairman

Robert C. Jackson, Vice Chair

Gary Stamper, Commissioner

SEAL OF LEWIS COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS
SINCE 1845
WASHINGTON'S 1st COUNTY

Adopted 01/29/18

LEWIS COUNTY

POLICY REGARDING PUBLIC RECORD REQUESTS

It is the Policy of Lewis County ("County") to release records of the County in compliance with the Public Records Act ("PRA") and any other applicable provisions of federal or state law.

I. PURPOSE

The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these Rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the County will be guided by the provisions of the Act describing its purposes and interpretation.

The County is required by the PRA, RCW Chapter 42.56, to adopt and enforce reasonable rules and regulations to provide full 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 in order to provide full access to public records, fullest assistance to requestors and the timeliest possible action, while mindful of the further requirement that it also must protect the records from damage or disorganization and prevent excessive interference with other essential functions of the County. The County's Public Records Policy is predicated upon these principles and provides information to records requestors and establishes processes for both requestors and County personnel.

Except where these provisions are mandated by statute, no affirmative duties shall be imposed on the County. The County reserves the right to apply and interpret this Policy and to revise or change the Policy at any time.

This Policy shall be available at the County's Risk Management Office and posted on the County's website.

II. PRA Rule 040. DEFINITIONS

A. Incorporation of Definitions

This Policy incorporates the definitions in RCW 42.56.010 and any relevant definitions in RCW 42.17A.005.

B. Additional Definitions

1. "Act" or "PRA" refers to the Public Records Act, at Chapter 42.56 RCW.

2. "Agency-to-Agency Information Sharing" means a request for information and/or records from a law-enforcement or governmental agency, whether local, state, or federal. If agency-to-agency information sharing is sought in a burdensome frequency or scope, the County may treat the matter as a request subject to this Policy instead of as agency-to-agency, routine information sharing.

3. "BOCC" refers to the Lewis County Board of County Commissioners.

4. "Closed or Completed Request" will be deemed by the County as such when the County notifies the requestor that the record(s) and/or final installment are available for delivery to the requestor *and* the requestor submits payment for the records.

5. "Exemption" refers to any statute that allows or requires the County to withhold information or records in response to a PRA request.

6. "Lewis County" refers to any Lewis County employee.

7. "Main Office" is defined in Section II.E of this Policy.

8. "Multiple Requestor" is defined as an individual, group, entity, organization or internet protocol address that submits a public records request to the County while an earlier records request is still open from that Requestor. At the time of the adoption of this Policy, if a Requestor has more than 5 pending records requests with any Lewis County entity, Lewis County will designate the Requestor as a "Multiple Requestor" and all requests will be processed pursuant to Section D and E of this Policy.

9. "Policy" refers to this Policy for the Public Records Act.

10. "Public Record" means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The County regardless of physical form or characteristics. Records created or received by employees using privately-owned devices only qualify as public record if the employee was acting within the scope of employment when the record was created or received, or when the record is subsequently used for a County purpose.

11. "Public Records Officer" or "PRO" is the person identified in Section III.A.1 of this Policy.

12. "PRA Request" means a request for Public Records made to the County pursuant to the Act.

13. "Requestor" means the person or entity that has made a Records Request to the County.

14. "Routine Agency Business" means an informal, usually oral request for specific, readily retrievable documents or information routinely supplied by the County to the public and/or press, which by its wording and the manner in which it is requested *do not* indicate that the request is made under the PRA.

15. "Withholding" means non-disclosure of exempt records, either all or in part.

C. Act Not Applicable

Court files and judges' files are not subject to the Act. Access to these records is governed by court rules and the common law.

Routine agency business is not a request and shall not be subject to this Policy. If it is not clear whether a contact with a Requestor is routine agency business or a request, the contacted employee shall promptly clarify with the Requestor and shall follow the Requestor's wishes regarding whether the contact is a request, except that the County always reserves the right to treat routine agency business as a request if it appears that it legally should be treated as such.

Agency-to-agency information sharing is not a request and shall not be subject to this Policy. If it is not clear whether a contact seeks agency-to-agency information sharing or a request, the contacted employee shall promptly clarify with the agency and shall follow its wishes regarding whether the contact is a request, except that the County always reserves the right to treat agency-to-agency information sharing as a request if it appears that it legally should be treated as such.

D. Amendment of the Rules

By authorization of the BOCC in the Resolution approving these Rules, BOCC is authorized to amend the Rules as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Rules facts

and circumstances may require. In the event of a conflict between the law and this Policy, the law will be deemed controlling.

E. Organization of Lewis County

Lewis County's Public Records Office Main Office is a division of the Risk Management Office located in the lower level of the Historic Courthouse Building at:

351 NW North Street, Chehalis, Washington 98532

All Record Requests shall be inspected at the Risk Management Office by appointment, which is open 8:00 a.m. to 5 p.m., Monday through Friday, except legal holidays.

Lewis County consists of several locations, including but not limited to:

351 NW North Street, Chehalis, Washington 98532
345 West Main Street, Chehalis, Washington 98532
585 NW Center Street, Chehalis, Washington 98532
2025 NW Kresky Avenue, Chehalis, Washington 98532
360 North Street, Chehalis, Washington 98532

Lewis County is governed by a 3-person elected Board of Commissioners.

III. GUIDELINES

A. Public Records Request

1. PRA Rule 020. Agency Description/Contact Information - Public Records Officer.

The County provides the services of a non-charter county code, including but not limited to: building and plans inspection; court; parks and recreation; planning and community development; public safety; and public works services, which are supported and supplemented by financial, administrative and legal/prosecutorial services.

The County's PRO is Casey Mauermann (Casey.Mauermann@ lewiscountywa.gov / 360-740-2674 as currently identified on the County's website: http://lewiscountywa.gov/commissioners/public-disclosure-requests.

All requests must be directed to the PRO. The PRO may be contacted in person at the Historical Courthouse Building, located in the Risk Management Office, Lower Level, 351 NW North Street, Chehalis, Washington 98532 or via first class mail or via email to the PRO. Further information regarding public records requests is posted on the County's website.

1. The PRO may delegate any of its responsibilities to the County Staff, with the BOCC being ultimately responsible for overseeing compliance with the Act and this Policy.

   The PRO shall designate another staff member to carry out the PRO duties when the PRO is not available.

   The PRO shall:

   (a) Be responsible for implementing the County's process regarding disclosure of public records;

   (b) Serve as the principal contact point with any Requestor who has made a Records Request to the County, unless the PRO has delegated these responsibilities to a specific staff member;

   (c) Coordinate County Staff in this regard, generally ensuring the compliance of the staff with public records disclosure requirements;

   (d) Provide input to the BOCC, which will make the final decision regarding disclosure and application of exemptions after considering the PRO's input and consulting with Lewis County's Prosecuting Attorney if needed;

   (e) Maintain Lewis County's indices, if any; and

   (f) Undergo the appropriate training as required for public records officers by Washington State law.

2. **PRA Rule 030. Availability of Public Records.**

Public records are available for inspection and copying, by appointment or by prior arrangement, during normal business hours of the County, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Inspection of the records shall occur at the Risk Management Office unless another location is indicated by the PRO.

(a) Records Index. By the Resolution approving these Rules, Lewis County BOCC issued a formal order finding that the maintenance of an index was unduly burdensome. This finding was based on the fact the County is comprised of ten departments, with divisions and subdivisions, serving 77,440 citizens (2017). The different departments necessarily maintain separate databases and/or record-keeping systems for the indexing of records and information. Because these records are diverse, complex and stored in multiple

locations and in multiple computer systems and databases, it is unduly burdensome to maintain a central index of records.

(b) Organization of Records. The County will maintain its records in a reasonably organized manner. While committed to fully comply with the Act and these Rules, the County must also take reasonable actions to protect records from damage and disorganization and prevent excessive interference with other essential functions of the County. A Requestor shall not take County records from County Offices. A variety of records are available on the County's website at: www.lewiscounty.gov. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

3. How to Make a PRA Request.

Public records may be inspected or copies of public records may be obtained by Requestors at the Risk Management Office upon compliance with the following procedures:

(a) All requests should be directed to the PRO. The County encourages that all requests be made in writing using the County's Public Records Request form, which is available at the Risk Management Office and on the County's website. Requests may be mailed, scanned and emailed, or delivered in person. In-person requests must be made during normal business hours. The request 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 Requestor'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 records requested that includes sufficient details to allow the County to identify responsive records;

(v) Whether the Requestor wants to inspect records or wants copies. (See Section III.E "Copying Public Records" for fees related to providing copies.) If the Requestor wants copies, the Requestor should also indicate if they want the County to contact them if copy costs will exceed twenty dollars ($20.00).

(vi) Signature of the Requestor.

The PRO may accept requests for public records that contain the above information by telephone or in person. If the PRO accepts such a request, he/she will confirm receipt of the Information and the substance of the request in writing. The confirmation will be deemed to be a correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

Records requests may only encompass existing records. They cannot be used to obtain copies of records not yet or no longer in existence. The PRO will use the date of request as the determinative date to produce records on any matter. If during the processing of a request, additional records are created by the County and are of interest to the Requestor, the Requestor must submit an additional request to obtain copies or inspect those records.

(b) Oral Requests. The Washington Courts have recognized that oral requests for public records can be problematic and, therefore, Requestors are strongly encouraged to make written requests using Lewis County's request form. When a Records Request is made orally, the PRO will confirm his or her understanding of the records requested as a part of the initial written response acknowledging receipt of the request. Unless the Requestor further clarifies the request within five (5) business days, the County will use the written confirmation to define the scope of the request. Any oral request must be made during the Main Office's normal business hours to the Public Records Officer or other live person and cannot be made through voicemail.

(c) Requestor Obligation. It is the Requestor's obligation to provide Lewis County with fair notice that a PRA request has been made. When a Requestor does not use the County's official request form, or when a Requestor submits a request to an employee other than the County's Public Records Officer, or includes a request as part of other documents provided to the County for reasons other than making a PRA request, the Requestor may not be providing fair notice to the County. To ensure fair notice is provided, Requestors are encouraged to use the official forms, make the request through the Public Records Officer and/or take other steps to clearly identify their request. For example, when a request is submitted with other documents not related to disclosure of public records, it shall be the responsibility of the Requestor to provide reasonable notice that a public records request is included. This notice may be in the form of an entry on a cover or transmittal sheet.

(d) Employment Records. If the request is for employment records and the Requestor is seeking his or her own records, the County shall

ask the Requester whether the request is being made pursuant to the Act, or some other right in law or contract to such records. If the Requester elects to pursue the records pursuant to the Act, the request shall be handled according to this Policy. If the Requester elects to pursue the records pursuant to a separate right in law or contract, then the request shall be handled pursuant to that law or contract.

(e) Attorney/Guardian/Representative Requests. An individual's attorney, legal guardian, or lay representative may request certain records concerning an individual only upon a written release signed by that individual. The written release must include: (A) the identity of the person(s) or organization(s) authorized to receive the records; (B) an identification of the record(s), or part of the record, that the individual wants released; and (C) the date the release expires. The County may ask for identification verifying the representative's relationship to the individual.

(f) Public Records Requests are Public Records. Public records requests are public records and subject to inspection or copying.

(g) Copies Instead of Inspection. If the requestor wishes to have copies or scans of the records made instead of simply inspecting them, he/she should so indicate and make arrangements with the PRO to pay the mandatory 10% deposit for copies or scans of the records as provided in PRA Rule 150 below.

B. PRA Rule 050. Procedure for Processing Public Records Requests

Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the PRO will process requests in the order allowing the most requests to be processed in the most efficient manner.

In an effort to better understand the request and provide all responsive records, the PRO can inquire about the purpose for the request, but the requester is not required to answer except to establish whether inspection and copying would violate RCW 42.56.070(9) (see PRA Rule 100 below) or other statute that exempts or prohibits production of specific information or records to certain persons.

1. **Acknowledging Receipt of Request / Initial Five-Day Response.** The County shall respond promptly to PRA requests. Within five (5) business days of receiving a Records Request (not including the day the request was received as provided for in RCW 1.112.040), the County must acknowledge receipt of the request in writing and take one or more of the following actions:

(a) Provide notice when any responsive records are currently available on the County's website. If so, the response may include a specific link to the document;

(b) Seek clarification or refinement of the request if needed to further identify the record requested;

(c) Indicate that the County does not have any responsive records;

(d) Indicate that any responsive records are exempt from disclosure (see Section III.D "Exemptions"); or

(e) Provide a reasonable time estimate of when the request can be fulfilled. For large requests that will be filled in installments, the response will also estimate when the first installment will be made available. When providing a reasonable estimate of time required to fulfill a disclosure request, the Public Records Officer 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 documentation, consult with appropriate staff regarding potential exemptions, and notify third parties or other agencies of requests for information of a sensitive nature consistent with the provisions of RCW 42.56.540.

Additional Time. If additional time is needed to provide an estimate, the factors used to estimate the additional time needed must be based upon criteria that can be articulated and may be presented in the response estimating the additional time needed. However, additional time is only allowed under the following circumstances:

(i) To request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. If the clarification is made by telephone, the PRO will confirm the scope of the clarification in writing;

(ii) The confirmation will be deemed the correct statement of the scope of the request unless the requester responds with a different statement of the scope;

(iii) To locate and assemble the information requested;

(iv) To notify third persons or agencies in the event the requested records contain Information that may affect rights of others and may be exempt from production. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit

the disclosure. The notice to the affected persons will include a copy of the request or a statement of the request if no written request was received; or

(v) To determine whether any of the Information requested is exempt from production and that a denial should be made as to all or part of the request;

(f) Provide a reasonable cost estimate and communicate the amount of the deposit to be made as provided in PRA Rule 150 below, and set forth the terms of payment.

(g) Special Provision for Multiple Requestors. The County will not work simultaneously on multiple requests from the same Requestor, i.e., will not process or commence work on any additional records requests from a multiple requestor until the preceding request is closed.

(i) Once identified as a "Multiple Requestor," a queue will be created for that Requestor and requests from that Requestor will be processed based on the initial request date. The County PRO will work on the requestor's earliest request to completion prior to starting on any subsequent requests of that requestor. A request will be deemed completed or "closed" when the County PRO notifies the requestor that the record(s) and/or final installment are available *and* the requestor submits payment for the records, pursuant to the definition of "closed records request" above.

2. **Large Requests/Installments.** When receiving a request that appears to be broad in nature, the PRO 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. Any information provided about the purpose of the request shall not be used as a basis for denying the request, unless specifically authorized by law.

When appropriate, 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.

When a Records Request is for a large volume of records, the County may elect to provide records on an installment basis. If a Requestor does not contact the PRO within thirty (30) days of being notified that an installment of records is available and arrange for the review *and* payment of the installment, the County may deem the request abandoned and will stop fulfilling the remainder of the request.

While Requestors usually cannot be required to explain why they are seeking records, the PRA does not prohibit agencies from asking why. Moreover, when the County knows why the Requestor is seeking records, the County is more likely to be able to locate those records without also producing a large volume of records the Requestor does not really want. Thus, it is often in the Requestor's interest to share additional information with the County.

3. **Requests for List of Names.** The PRA prohibits the County from producing lists of names to a Requestor who intends to use the list for commercial purposes. When a Requestor requests a list of names, the Requestor should explain the intended use of the list and may be asked to sign a declaration or affidavit providing that the list will not be used for commercial purposes.

4. **Notice to Third Parties.** If a public record contains personal information that identifies an individual or organization other than the subject of the requested public record, the County may notify that individual or organization to allow the third party to seek relief pursuant to RCW 42.56.540 by obtaining a court order that prevents release of these records. Lewis County may take this into account when providing an estimate for when the records will be available. The County should also review any contracts with third parties that may contain special notice provisions. Nothing in this Policy is intended to create any right to such notice. The third party notice should include:

   (a) A description of the record being requested;

   (b) The date the County intends to release the record; and

   (c) How the individual or organization can prevent release of the record.

   The County may also send a written notice (included in the initial five-day response) to the Requester notifying them that:

   a) The individual or organization whose personal information is contained in the requested public record has been notified;

   b) The County expects a response from the individual or organization regarding disclosure of their personal information by a specified date; and

   c) Disclosure may be denied.

   The County shall release the record by the specified date if no one objects or the contacted party does not respond by the specified date, unless it is otherwise exempt from production.

5. **Creating Records.** A PRA request only applies to records that exist at the time of the request. The PRA does not apply to requests for information or require the County to create a new record. Requestors cannot make "standing" PRA requests.

6. **Consequences of Failure to Respond.** If the County does not respond in writing within five (5) business days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

   (a) Consider the request denied; and

   (b) Petition the PRO.

   The Requestor should consider contacting the PRO to determine the reason for the failure to respond.

7. **Injunction.** Pursuant to RCW 42.56.565, the County may seek to enjoin the inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities.

C. Lewis County Actions After a Request Is Received

1. Order of Response. Fulfillment of requests from the same Requestor shall be processed in the order of receipt.

2. Locating Responsive Records: After receiving a request, the Public Records Officer shall determine what departments might have responsive records and whether it will be necessary to conduct electronic searches for records. The Public Records Officer will then coordinate with other County Staff as needed. The County Staff will be prompt in researching where there may be responsive records and providing them to the PRO in accordance with the timeframe requested by the PRO to locate responsive records.

3. Identifying Potentially Exempt Records. The PRO is responsible for identifying records that are potentially exempt or contain potentially exempt information. The PRO will then work with the Lewis County Prosecuting Attorney's Office to determine whether any exemption applies.

D. PRA Rule 060. Managing the Queues for Multiple Requestors.

The Public Records Officer is primarily responsible for managing the records requests queues based on the date the request was submitted.

E. PRA Rule 090. Records Requests Queues.

(1) All records requests shall be maintained and tracked in records requests queues within GovQA, indexed by Requestor. The queues shall identify the status of the records as "Multiple Requestor Queue."

(2) Records requests will initially be entered in the respective queues in the chronological order in which they are received by the County.

(3) Depending on the nature of the request, responding to a records request can be a complex process. The PRO will manage requests based on circumstances that may include, but are not limited to, when a request is:

(a) waiting for records to be retrieved from storage;

(b) waiting for records to be retrieved from persons or entities that hold them on behalf of Lewis County (e.g. employees, consultants);

(c) waiting for the requester to respond to a request for clarification;

(d) waiting for a response after notifying a third party named in a record;

(e) waiting for the expiration of the time allowed a third-party to obtain an order from a court enjoining release of records;

(f) waiting for resolution of a legal action filed by a third party to enjoin release of records;

(g) waiting for legal review of records to determine if they meet the definition of a public record or the applicability of exemptions and production of an exemption log;

(h) waiting for consideration of a petition to review denial of access;

(i) waiting for the requester to pay for copies of the records or pay a deposit for copies;

(j) waiting for external vendor reproduction of records; or

(k) waiting for the requester to claim an Installment or physically Inspect records.

However, under no circumstances will the PRO or the County work simultaneously on more than one (1) request per Requestor at a time. The PRO or the County will not retrieve and/or open from any given Requestor's queue more than one (1) record request. Records requests will be designated as "Multiple Requestor Queue" while awaiting action in the queue.

Responsive records will be compiled and the Requestor is to be notified the installment and/or request is available. The PRO will hold the record(s) for up to thirty (30) days. If the Requestor does not pay the remaining fee within thirty (30) days, the request will be deemed "abandoned" and the PRO will close the request.

F. PRA Rule 100. Redactions & Exemptions

1. **Exemptions.** The Public Records Act and other statutes exempt from or prohibit disclosure of certain public records. It is the Policy of the County to provide prompt and helpful access to all public records in the County's custody that state statutes do not exempt or prohibit from disclosure. Requested records may only be withheld or redacted consistent with statutory requirements, 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.

   The following are summaries of common exemptions relied upon by the County. Note, the County reserves the right to assert any exemptions permitted by law when the County determines non-disclosure serves the public interest and is not limited to the exemptions listed below:

   (a) Records that are protected by trade secrets law;

   (b) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any the County within five years of the request for disclosure when disclosure would produce private gain and public loss;

   (c) Personal information in files maintained for board members, Lewis County employees and volunteers, or that might be found on mailing lists or rosters, to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security numbers, voluntary deductions, marriage status, number of dependents, and any garnishment deductions;

   (d) Preliminary drafts, recommendations, and intra-Lewis County memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the board in connection with any board action;

   (e) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

   (f) Medical records;

(g) Records created in anticipation of litigation;

(h) Personal information for minors enrolled in park or recreation programs, including contact information for the minor's parent/guardians;

(i) Records reflecting communications between attorneys and County employees where legal advice is sought or received. The PRO shall consult with the County's counsel before releasing any records relating to the County's attorneys to determine if the record is in fact privileged or otherwise exempt from disclosure; or

(j) Any record which is exempt from disclosure under state or federal law.

G. PRA Rule 140. Exemptions provided by other statutes.

1. **Exemptions.** The Act provides that a number of records are exempt from public inspection and copying. In addition, documents are exempt from production if any "other statute" exempts or prohibits production. Requestors should be aware of the following exemptions, outside the Act, that may restrict the availability of some records held by the County for Inspection and copying/scanning:

   (a) Attorney/Client Privilege;

   (b) Juvenile Court Records;

   (c) County/City Jails Act.

   Note: This is not an all-inclusive list. The PRO will contact the Requestor if the request falls within exempt statute provision.

2. **Redactions.** Similarly, if the Public Records Officer determines that any portion of a public record is exempt, then, if those exempt portions of Public Records can be redacted, the remainder thereof shall be open to public inspection and copying and shall be provided to a requester. For example, by way of illustration only, a copy of the record may be provided for inspection in which the redacted information has been blacked out with a black marker or otherwise covered during the copying process. If only a portion of a record is exempt from production, but the remainder is not exempt, the PRO will redact the exempt portions, produce the nonexempt portions, and indicate to the requester why portions of the record are being redacted. (For the purposes of these Rules, "redact" means the exempt

information will be covered in some manner and then the record will be photocopied and the photocopy then disclosed.)

3. **Withholding Logs and Redactions Logs.** When records are withheld or redacted, the Requestor shall be informed in writing the statutory citation for the exemption and a brief explanation of how the exemption applies. For withheld records, the County will also provide basic identifying information for each withheld record including the type of record, the date the record was created, the number of pages, the author, and recipients, if any.

4. **Legal counsel.** For any questions the County may have regarding whether or not an exemption should be redacted, legal counsel assistance may be sought.

H. PRA Rule 110. Inspection of records.

1. Consistent with other demands, the County shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requester shall indicate which documents he or she wishes the County to copy or scan, if any, and provide payment for those copies or scans.

2. The requester must claim or review the assembled records within 30 days of the PRO's notification to him or her that the records are available for Inspection or copying/scanning. The PRO will notify the requestor, in writing, of this requirement and inform the requester that he or she should contact the PRO to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the PRO may close the request and re-file the assembled records.

I. PRA Rule 120. Providing Records.

1. Providing records in installments. When the request is for a large number of records, the PRO may provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that manner. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the PRO may stop searching for the remaining records and close the request.

2. Closing withdrawn or abandoned requests. When the requester either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the PRO will close the request and so inform the requestor.

3. Later discovered documents. If, after the PRO has informed the requestor that he or she has 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, he or she will promptly inform the requester of the additional documents and provide them on an expedited basis.

4. Identifiable record. A requestor must request an identifiable record or "class of records" before an agency must respond. An identifiable record is one that agency staff can reasonably locate. The Act does not allow a requestor to search through agency files for records which cannot be reasonably identified or described to the agency.

5. Requests for information or nonexistent records. Requests for information are not public records requests. An agency is not required to conduct legal research for a requestor. An agency is not required to create records to respond to a request.

J. Copying Public Records

No fee shall be charged for the inspection of Public Records. Pursuant to the Public Records Statute, the Requestor may be charged the following fees as applicable when requesting copies of records.

1. **Copies**. The County will charge one or more of the following charges for copies that are produced in-house by the County:

   i. The County has determined that calculating the actual costs it incurs copying and transmitting records to requestors will be unduly burdensome.

   ii. The County shall charge the statutory fees specified in RCW 42.56.120, now or as hereafter amended. If the total applicable fees include a fractional amount of one cent, they shall be rounded up to the next cent. These fees are solely for the purposes permitted by law; they shall not be charged merely for the inspection of records on site.

   iii. When calculating fees, the responding employee shall use the most reasonable, cost-efficient method of delivering records to the requestor. The responding employee shall, upon request by the requester, provide an estimate of fees in advance of acquiring any records, and give the requestor an opportunity to amend the request to reduce the applicable fees.

   iv. The employee responding to the request may require a deposit of up to 10 (ten) percent of the estimated fees for the request in advance of making copies. All fees shall be paid in advance of giving or transmitting copies to the requestor. If a response is provided on an installment basis, only the fees due for the installment need be paid before that installment is given or transmitted.

v. The employee responding to a request may waive the fees under the following circumstances:

a. The fees (a) are less than $1.00, and

b. The request, and any other pending or ongoing requests from the same requestor is/are easy enough that collecting the money is more difficult than responding to the request(s).

vi. Indigence shall not be grounds to waive fees. Records are subject to free public inspection on site at the County.

2. **Third-Party Vendors:** The County will charge the Requestor for the actual cost of any copies produced outside the County by a third-party vendor, including taxes.

3. **Other Costs:** The County will charge the Requestor for any postage and shipping costs, including the cost of any containers used in shipping.

The PRO may elect to waive these fees. Fees will be waived when the expense of billing exceeds the cost of copying and postage.

4. **Deposits.** Before copying any record, the County may charge a deposit up to 10% of the estimated costs. When records are being produced on an installment basis, the County may charge for each installment. The decision not to request a deposit shall not serve to waive the County's right to request a deposit for a future request. If an installment is not claimed and paid for within thirty (30) days of having been notified the records are available, or if the Requestor has not contacted the County within this thirty (30) day period to arrange a date to claim and pay for the installment outside this thirty (30) day period, the County is not obligated to fulfill the balance of the Records Request.

K. PRA Rule 130. Processing of Public Records.

1. Electronic records. Unless the Requestor specifically requests copies of records in a particular format, the County will usually produce records in paper format. If a Requestor asks for records in an electronic format and the record does not require redaction, the County will produce the record in that format, such as a "native" format like Word or a common format like PDF as long as it is reasonable and technologically feasible for the County to do so. Fees may apply as indicated above in Section III.E.1. For purposes of calculating fees, an electronic "file" shall contain no more than

one document. Electronic records that require redaction usually cannot be produced in a native format and will be converted to paper or PDF.

L. PRA Rule 150. Costs & Fees.

1. Costs for copies. A requester may obtain copies or scans as provided under RCW 42.56.070(7), 42.56.120 and WAC 44-14-07003, the County will charge for those copies or scans according to the fee schedule. [See Current State Fee Schedule Attachment.]

2. In the event RCW 42.56.070(7), 42.56.120 and WAC 44-14-07003 is modified, amended, altered or changed, Lewis County will automatically modify, amend, alter or change its Policy to reflect the current fees charged by the state of Washington.

3. For records in other forms, the County will charge the actual cost it pays for the medium used to record the record or records provided. Those mediums include, but are not limited to, CDs, DVDs, flash drives, external hard drives *and others*. The statements providing those costs are the invoices paid to obtain them and are available for public inspection and copying.

M. Inspection of Records

1. 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 Public Records Officer shall notify the Requestor that the records are available.

2. Response by Requestor. If the Requestor does not contact the PRO to arrange for payment of the copies or for review of the records within thirty (30) days after notice of availability was sent, the County may consider the Records Request abandoned, unless the Requestor seeks within this thirty (30) day period an additional amount of time to review the records.

3. Protection of Records. In order that Public Records maintained on the premises of the County may be protected from damage or disorganization as required by the Act, the following procedures and practices are hereby instituted:

   (a) No Public Records shall be removed from any County Office without the PRO's permission;

   (b) Inspection of any Public Records shall be conducted in the presence of the PRO or designated staff;

(c) 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;

(d) 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 Lewis County staff; and

(e) Public records of Lewis County may be copied only on the copying machines of Lewis County unless other arrangements are made by the Public Records Officer.

4. Loss of Right to Inspect. Inspection shall be denied and the records withdrawn by the PRO if the Requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the County.

J. **Closing the File.** The request shall be closed once all copies of requested records have been provided to the Requestor and the Requestor has paid for and reviewed them. If thirty (30) days have passed since the Requestor was notified that the records were available and the Requestor has failed to contact the PRO to arrange for the payment and/or review of those records, the PRO shall treat the request as "abandoned" and shall close the request.

N. **PRA Rule 160. 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 County's statement of withholding. The request for review and any relevant information shall be forwarded immediately to the PRO who will then refer it to the BOCC. The BOCC shall consider the petition and either reverse or affirm the denial within fourteen (14) days of the County's receipt of the petition. To allow for a more thorough review, the County 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 County'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.

(1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the PRO for a review of that decision. The petition shall include a copy of, or reasonably identify, the written statement by the PRO denying the request.

(2) Consideration of petition for review. The PRO shall promptly provide the petition and any other relevant information to the Lewis County Prosecuting Attorney to conduct the review. The Prosecuting Attorney will immediately consider the petition and either affirm or reverse the denial within five (5)

business days following the County's receipt of the petition, or within such other time as the County and the Requestor mutually agree.

(3) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two (2) business days after the initial denial regardless of any internal administrative appeal. However, failure to exhaust the administrative remedies set forth herein shall preclude suit.

O. Preservation of Records.

The County's records are the property of the County and as public records are subject to disclosure unless the law provides an exemption. They will be managed and disposed of by the County in accordance with Washington State regulations. Nothing in this Policy prevents the County from disposing of records that have met the required Washington State retention period. If a Records Request is made at a time when such a record exists but is scheduled for disposal in the near future, the PRO shall retain possession of the record and may not dispose of it until the request has been filled. Outgoing officials and employees shall deliver all Public Records in their possession to their supervisors before leaving office or employment with the County.

P. Index of Public Records

For the reasons stated in Resolution 18-004, incorporated herein by reference, Lewis County finds that it would be unduly burdensome and would interfere with County operations to maintain an index of records. The County will make available for public disclosure all indices which may at a future time be developed for County use.

Q. Disclaimer of Liability

Neither the County 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.

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 Lewis County beyond those imposed by state and federal law.

Attachment #1

Washington State Public Records Request Fee Schedule

Paper Copy Fee	15 cents / page
Scan Page Fee for Electronic Format	10 cents / page
Electronic Delivery (E-Mail) Fee	5 cents / 4 files*
Electronic Records Transmission	10 cents / gigabyte
Storage Media / Container / Envelope / Postage / Delivery Charge	Actual Cost

* For purposes of calculating fees, an electronic "file" shall contain no more than one document and/or e-mail.

NOTE: Charges will be combined if more than one type of charge applies.

BOCC AGENDA ITEM SUMMARY

Resolution:

BOCC Meeting Date: Jan 29, 2018

Suggested Wording for Agenda Item:

Agenda Type: Consent

Rescinding Lewis County Policies 08-208 & 08-209 and establishing an Updated Public Records Request Policy

Contact Paulette Young

Phone: 360740-1279

Department: Risk Management

Action Needed: Approve Resolution

Description

Lewis County's Policies regarding the Public Disclosure Act are found in Resolutions 08-208 & 08-209, and Lewis County desires to replace those policies with the attached policy

18-003

AFFIDAVIT
OF PUBLICATION
STATE OF WASHINGTON
COUNTY OF LEWIS

Amanda Curry, and/or Kim Proffitt, says that she is the legal clerk of

The Chronicle

a semi-weekly newspaper, which has been established, published in the English language, and circulated continuously as a semi-weekly newspaper in the City of Centralia, and in Lewis County, Washington, general circulation in Lewis County for more than six (6) months prior to the date of the first publication of the notice hereto attached, and that the said Chronicle was on the 7th day of July 1941, approved as a legal newspaper by the Superior Court of said Lewis County. And that the attached is a true copy and was published in regular issues (and not in supplement form) of said newspaper as LEGAL # 102091
RE:Risk

once each day for a period of 2 days

commencing on **01/09/2018** and ending on **01/11/2018**

and both regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of **$ 41.80**

Amanda Curry

Subscribed and sworn to before me 01/11/2018

Ronda Barr

Notary Public in and for the State of Washington, residing at

Chehalis

RONDA BARR
COMMISSION EXPIRES
NOTARY PUBLIC
FEB. 25, 2019
STATE OF WASHINGTON

102091 Risk

Lewis County Board of County Commissioners
Notice of Hearing

Lewis County hereby gives notice that a resolution to establish an updated policy and fee schedule in accordance with the Public Records Act shall be the subject of a public hearing before the Board of County Commissioners (BOCC) at or after 10 a.m. Monday, Jan. 29, 2018, at the Historic Courthouse at 351 N.W. North Street, Chehalis. It may then be enacted immediately at the conclusion thereof.

The resolution would rescind Resolutions 08-208 and 08-209 and would make procedural and substantive changes to Lewis County's policy and fee schedule regarding public records, in accordance with the Public Records Act.

All persons wishing to be heard on this matter are encouraged to attend. Written comments may be submitted in advance of the hearing by mail or at the hearing by delivery in person. Please deliver copies of all written comments to the Clerk of the Board for the Lewis County BOCC at 351 N.W. North St, Chehalis, WA 98532.

This meeting site is barrier free. People needing special assistance or accommodations should contact the Commissioners' Office by phone at 360-740-1120 at least 72 hours in advance of the meeting.

Published: The Chronicle
January 9 & 11, 2018

Effective this 27th day of February, 2018, the Lewis County Auditor's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Larry E. Grove
Lewis County Auditor

Effective this 27th day of February, 2018, the Lewis County Coroner's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Warren McLeod
Lewis County Coroner

Effective this 26 FEBRUARY 2018 day of February, 2018, the Lewis County Sheriff's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Robert R. Snaza
Lewis County Sheriff

Effective this 2/26/18 day of February, 2018, the Lewis County Treasurer's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Arny Davis
Lewis County Treasurer

Effective this 15th day of February, 2018, the Lewis County Prosecuting Attorney's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Jonathan Meyer
Lewis County Prosecutor

Effective this 2-15-18 day of February, 2018, the Lewis County Clerk's Office hereby adopts Lewis County Board of County Commissioners Resolution #18-055, relating to the Lewis County Public Records Policy.

Scott Tinney
Lewis County Clerk