

THE PORT OF TACOMA COMMISSION
MEMORANDUM

Port of Tacoma Commission
ACTION ITEM

Item No.

6B

Date of Meeting:

August 20, 2020

DATE: July 20, 2020

TO: Managing Members

FROM: Eric Johnson, Executive Director

Erin Galeno, Chief Financial and Administration Officer, and Public Records Officer

Diane Jordan, Records and Business Systems Analyst and Carolyn Lake, General Legal Counsel

SUBJECT: Public Hearing & Commission Adoption of Public Records Fee Schedule

A. ACTION REQUESTED

Commission Public Hearing and Adoption of Public Records Fee Schedule attached hereto as **Appendix A**.

B. SYNOPSIS

Port of Tacoma satisfies the vast majority of its public records request via a user-friendly and efficient electronic system "Next Request", resulting in no charges to the requester. The Port also relies on the statutory "default" fee schedule, as allowed by state law. The Port requests a Commission public hearing and adoption of the attached Fee Schedule, so that (1) the public has enhanced notice of the public record fee schedule, and (2) the Port's fee schedule aligns with that of the NWSA, for administrative efficiencies.

C. BACKGROUND

The Port of Tacoma has a robust, electronic public records response tool, "Next Request" that allows requestors to file a public records request electronically, staff to respond electronically, and allows any member of the public to search the data bank of records previously released by the Port, with the idea that this access may decrease the number of records requests submitted. The Next Request tool also

allows all Port activity related to a record request to be tracked and logged in real time and stored in one system.

Next Request is an electronic-based system. As a result, nearly all records supplied to public records requestors are filled electronically, with no cost to Port to produce and no charge to requesters. This promotes low cost transparency.

In those few instances where hard copy record production is required, the Port may charge fees and costs according to the “default” fee schedule as allowed by state law. See **Appendix B** for that fee Schedule.

There are limited occasions where the Port may need rely on outside consultants to respond to complex records request. RCW 42.56.120 allows public agencies to recoup from the requestor the agency’s actual expenses associated with fulfilling records productions (such as third-party copy services for oversized records, access fees charged by vendors, or electronic media necessary for production).

The Commission’s action in holding a public hearing on the proposed PRA fee schedule gives enhanced public notice to the public of the Port’s ability to recoup these expenses, and aligns the Port fee schedule with the NWSA, for administrative efficiencies.

The proposed fee schedule is as follows:

Item	Cost
Records available electronically	No charge
Photocopies	\$.15/page or actual cost Two-sided documents are charged as two pages
Large production of paper records or non-standard sized or non-routine records requiring use of outside vendor	Actual cost of copy or production service including postage and shipping container; may require deposit of 10% of estimated cost prior to production
Paper scanned to electronic file	\$.10/page or actual cost
External drives or other digital storage media devices	Actual cost
Mailing, delivery and shipping	Actual cost of mailing or shipping plus cost of shipping materials
Any charge by third-party vendor to access and produce records stored by that vendor	Actual cost
Customized service charge, after notice to requestor	Actual cost

C. FINANCIAL IMPLICATIONS

- No financial implications to the Port.
- In those instances where outside (non-Staff) costs are incurred, the requestor will be given notice of actual costs prior to the work being done. The requestor will be required to pay the actual cost of producing records prior to release of records.

D. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- **No Action Alternative:** No financial implications to the Port. Requestor will be given notice of actual costs prior to the work being done. The requestor will be required to pay the actual cost of producing records prior to release of records.
- **Recommended Action:** Adopt the proposed fee schedule as presented. A Fee Schedule aligned with the NWSA promotes efficient staff administration.

E. ATTACHMENTS TO THIS REQUEST

- Appendix A – • Draft Public Records Fee Schedule
- Appendix B - default Public Records Fee Schedule
- Power point presentation.

F. PREVIOUS ACTIONS OR BRIEFINGS

None.

EXHIBIT A

PORT OF TACOMA PUBLIC RECORDS FEE SCHEDULE
Effective: August 20, 2020

As allowed under RCW 42.56.120, below is the Port of Tacoma (Port) adopted Public Records Fee Schedule.

Item	Cost
Electronic records	No charge
Photocopies	\$.15/page Two-sided documents are charged as two pages
Large production of paper records or non-standard sized or non-routine records requiring use of outside vendor	Actual cost of copy or production service including postage and shipping container; may require deposit of 10% of estimated cost prior to production
Paper scanned to electronic file	\$.10/page
External drives or other digital storage media devices	Actual cost
Mailing, delivery and shipping	Actual cost of mailing or shipping plus cost of shipping materials
Any charge by third-party vendor to access and produce records stored by that vendor	Actual cost
Customized service charge, after notice to requestor	Actual cost

- The charge for standard black-and-white photocopies is fifteen cents (\$.15) per page. This is a statutorily allowed fee, as calculating the actual costs for staff time, materials, and production of a copy would be administratively burdensome.
- For large productions of paper records or for copying of non-standard sized documents or non-routine formats, the Port may use an outside vendor and charge the actual cost of the copy or production service including postage and the shipping container. A deposit of 10% of the estimated cost may be required prior to production of the records.
- The charge to scan a paper record to electronic copy of a record is ten cents (\$.10). This is a statutorily allowed fee, as calculating the actual costs for staff time, materials, and production of an electronic copy would be administratively burdensome.
- For large productions of electronic records requested/required on external drives, the Port may charge the requestor the actual cost of the external drive or digital storage media device.
- In addition to the charge imposed for providing copies of public records, if any, the Port may include a customized service charge if the Port estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic

EXHIBIT A

access services when such compilations and customized access services are not used by the Port for other agency purposes. In all such cases, the Port will notify the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. This notice will provide the requestor the opportunity to amend their request in order to avoid or reduce the cost of a customized service charge. Requester must pay customized service charge and any applicable fees prior release of records.

- Charges may be combined to the extent that more than one type of charge applies to the production of records (for example, \$.10/page of paper files scanned to electronic format, plus cost of digital storage media device if required for production).
- A requestor will not be charged anything more than is necessary to reimburse the Port for its actual costs directly incident to copying and production of the records.
- No sales tax is charged on copies of records made at the Port's facilities.
- Payment to the Port under this schedule may be made by cash or credit card.
- If the request is fulfilled in installments, payment for each records installment must be paid prior to installment release. If an installment is not paid and claimed, the Port is not obligated to fulfill the balance of the request.

NOTE: The Port of Tacoma reserves the right not to charge fees set forth herein on a case-by-case basis and the Public Records Officer may determine, in their discretion, whether or not to charge fees for a particular request.

SUMMARY: COSTS FOR COPIES UNDER PUBLIC RECORDS ACT – RCW 42.56

AGENCY OPTIONS PURSUANT TO EHB 1595 (CHAP. 304, LAWS OF 2017)

Effective July 23, 2017; Summary Only – See Statutes for Details

<p>CHARGING ACTUAL COSTS</p>	<p>CHARGING STATUTORY DEFAULT FEES</p>	<p>CHARGING ALTERNATIVE FLAT FEE</p>	<p>CHARGING PURSUANT TO ALTERNATIVE FEE ARRANGEMENT</p>	<p>CHARGING FOR CUSTOMIZED ACCESS SERVICE</p>	<p>WAIVING CHARGES (FEES)</p>
					
<p>Agency can charge its actual costs directly incident to copying including:</p> <ul style="list-style-type: none"> • Paper and per page cost for use of agency copying equipment • Electronic production or file transfer of the record • Use of any cloud-based data storage and processing service • Costs directly incident to shipping including postage or delivery charges and cost of container or envelope • Costs of transmitting the records in electronic format including the cost of any transmission charge and use of any physical media device provided by agency. 	<p>Agency can assess costs per the statutory fee schedule:</p> <ul style="list-style-type: none"> • 15 cents/page paper • 10 cents/page scanned into electronic format • 5 cents/4 files or attachments and provided by electronic delivery • 10 cents/gigabyte of electronic records transmission • Actual costs of storage media, container, envelope; postage/delivery charge • Charges can be combined if more than one type of charge applies. 	<p>Agency can charge alternative flat fee of up to \$2 for a request (rather than actual costs or default fees).</p>	<p>Agency can do an alternative fee arrangement, or in response to voluminous or frequently occurring requests.</p>	<p>Agency can charge up to actual costs for providing customized access services.</p>	<p>Agency can waive charges (fees).</p>
<p>REQUIREMENTS:</p> <p>(1) Agency must have a statement of the factors and manner it used to determine actual costs. Per page costs cannot exceed actual costs.</p> <p>(2) Can charge actual costs in the statement only after notice and a public hearing.</p> <p>(3) Use the most reasonable cost-efficient method available at the agency as part of normal operations.</p> <p>(4) Cannot include staff salaries, benefits or other general administrative or overhead unless directly related to actual costs of copying. Can include staff time to copy and send the records.</p> <p>(5) Cannot charge for records routinely posted on website unless requester asks for copies through other means.</p>	<p>REQUIREMENTS:</p> <p>(1) Agency must have a rule or regulation declaring the reasons calculating actual costs would be unduly burdensome.</p> <p>(2) Use the most reasonable cost-efficient method available at the agency as part of normal operations.</p> <p>(3) Cannot charge for records routinely posted on website unless requester asks for copies through other means.</p>	<p>REQUIREMENTS:</p> <p>(1) Agency must reasonably estimate and document that the costs are clearly equal to or more than \$2.</p> <p>(2) An additional flat fee or statutory default fee cannot be assessed after first installment (\$2 is the limit for the entire request).</p> <p>(3) Cannot charge for records routinely posted on website unless requester asks for copies through other means.</p>	<p>REQUIREMENT:</p> <p>Agency is to have a contract, memorandum of understanding or other agreement with the requester.</p>	<p>REQUIREMENTS:</p> <p>(1) Agency estimates that the request would require use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other purposes.</p> <p>(2) Agency must give requester estimate and other information. See statute.</p>	<p>REQUIREMENT:</p> <p>Agency may waive charges (fees) pursuant to its rules and regulations.</p>
<p>RCW 42.56.070(7)(a) and (b); RCW 42.56.120(1) and (2)(a) and (e)</p>	<p>RCW 42.56.120(2)(b), (c) and (e)</p>	<p>RCW 42.56.120(2)(d) and (e)</p>	<p>RCW 42.56.120(4)</p>	<p>RCW 42.56.120(3) and (4)</p>	<p>RCW 42.56.120(4)</p>

Port of Tacoma Commission Public Hearing : Amendment to Public Records Fee Schedule

Presenter: Erin Galeno, CFAO
and Public Records Officer

Support: Carolyn Lake
General Legal Counsel



Proposed Public Records Fee Schedule



Action Requested:

Request Commission public hearing and adoption of Port of Tacoma Public Records Fee Schedule.

Proposed Public Records Fee Schedule – SUMMARY



- The vast majority of POT public records request are addressed via a user-friendly and efficient electronic system “Next Request” with no charges to the requester.
- The Port also relies on the statutory “default” fee schedule, as allowed by state law.

Proposed Public Records Fee Schedule



The Port requests a Commission public hearing and adoption of the Public Records Fee Schedule to:

- Give public notice of the public record fee schedule, and
- Allows POT to be aligned with the NWSA, for administrative efficiencies.

Proposed Public Records Fee Schedule



POT has a robust, electronic public records response tool, “Next Request”, which:

- Allows requestors to file a public records request electronically
- Staff to respond electronically, and
- Allows any member of the public to search the data bank of records previously released by the Port, with the idea that this access may decrease the number of records requests submitted.

Proposed Public Records Fee Schedule



The Next Request tool also allows

- All Port activity related to a record request to be tracked and logged in real time, and
- Stored in one system.

Nearly all records supplied to public records requestors are filled electronically, with

- No cost to Port to produce, and
- No charge to requesters.

This promotes low cost transparency.

Proposed Public Records Fee Schedule



In the few instances where hard copy record production is required, the Port may charge fees and costs using the “default” fee schedule as allowed by state law.

- A copy is provided in materials as Appendix B.

Proposed Public Records Fee Schedule



In limited occasions, the Port may need to rely on outside consultants to respond to a complex records request.

RCW 42.56.120 allows public agencies to recoup the agency's actual expenses:

- Third-party copy services for oversized records
- Access fees charged by vendors, or
- Electronic media necessary for production.

Proposed Public Records Fee Schedule



The Commission's action in holding a public hearing on the proposed PRA fee schedule:

- Gives enhanced public notice to the public of the Port's ability to recoup these expenses, and
- Allows the Port to be aligned with the NWSA, for administrative efficiencies.

Proposed Public Records Fee Schedule



FINANCIAL IMPLICATIONS

- No financial implications to the Port.
- In those instances, where outside (non-Staff) costs are incurred, the requestor will be given notice of actual costs prior to the work being done.
- The requestor will be required to pay the actual cost of producing records prior to release of records.

Proposed Public Records Fee Schedule



ATTACHMENTS TO THIS REQUEST

- Appendix A Draft Public Records Fee Schedule
- Appendix B – default Public Records Fee Schedule
- Power point presentation.

Proposed Public Records Fee Schedule



Action Requested:

Request Commission public hearing and adoption of Port of Tacoma Public Records Fee Schedule.