

## ARTICLE 90    Public Records and Privacy Policy

Sec. 90.1    Policy.    Public records of the District shall be open to inspection during regular office hours of the District. "Public records" are all records of the District except those which are exempted from disclosure by or pursuant to the California Public Records Act (Government Code Section 6250, et. seq.).

### Sec. 90.2    Definitions

- (a)    "Records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the District regardless of physical form or characteristics.
- (b)    "Writing" means, but is not limited to, handwriting, typewriting, printing, texting, photocopying, scanning, photographing, and every other means of recording upon any form of communication or representation, including letters, emails, words, pictures, sounds, symbols, or a combination thereof and all papers, maps, tapes, photographic films, files and prints, memory cards, discs, flash drives, CDs, DVDs and other forms of documentation.

### Sec. 90.3    Records Exempt from Disclosure

- (a)    In accordance with Government Code Section 6254, the following records are exempt from and shall not be disclosed:
  - 1.    Preliminary drafts, notes or interagency or intra-district memoranda which are not retained by the District in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;
  - 2.    Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;
  - 3.    Records of District customers, personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy unless the person who is the subject of the file gives his or her permission in writing to disclosure;
  - 4.    Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

Sec. 90.3      Records Exempt from Disclosure (Cont'd.)

5. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or academic examination;
  6. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;
  7. Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.
  8. Library and museum materials made or acquired and presented solely for reference or exhibition purposes; and
  9. Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege.
- (b) The District shall withhold from inspection any record that is exempt under the express provisions of the California Public Records Act, including those items set forth above, and may withhold any other record if on the facts of the particular case the public interest served by not making a record public clearly outweighs the public interest served by disclosure of the record.
- (c) Every employment contract between the District and any public official or employee is a public record which is not subject to the provisions of subsections (a) and (b).
- (d) The Board of Directors has determined that the public interest is served by not making public the names, addresses and billing information regarding customers of the District since the indiscriminate disclosure of such information could constitute an undue invasion of the right of privacy of its customers. Any person seeking such information may file a written appeal with the Secretary of the District in the manner provided in these rules. Thereafter, the Board of Directors shall on the facts of the particular case determine whether the public interest served by not making the record public clearly outweighs the public interest served by disclosure of such record.

Sec. 90.4      Procedure

- (a) Any person desiring to inspect any public record shall identify herself or himself and shall identify the records desired to be inspected.
- (b) The Secretary of the District shall determine whether the requested record is subject to inspection. If the Secretary is uncertain whether the record is exempt from disclosure under the California Public Records Act or whether that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record, the Secretary shall consult with counsel for the District. If the Secretary refuses to permit inspection of any record, the person seeking such inspection may appeal the decision of the Secretary to the Board of Directors. Such appeal shall be made in writing and shall be filed with the Secretary not later than 5 working days after the refusal of the Secretary to permit inspection.
- (c) The Board of Directors shall consider and rule upon the appeal within 35 days after the filing thereof and shall thereupon notify the applicant in writing of its decision. If the applicant has filed a written appeal with the Board, the applicant shall be notified of the time and place of the meeting of the Board to consider the matter, and the applicant may appear in person before the Board when the matter is heard. If the Board fails to give written notice of its decision within 40 days of the filing of the appeal, the appeal shall be deemed denied.
- (d) Inspection of public records shall be made only in the District office, and no document shall be removed therefrom. A representative of the District may be present during the inspection of any records.
- (e) The District will make every effort to cooperate with the persons seeking to inspect documents, however, if the request is to inspect a substantial quantity of documents or documents not readily available, the District shall have a reasonable period of time to collect such records and may require the inspection of such records to take place at a future date.
- (f) Any person may obtain a copy of any identifiable public record. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the District.
- (g) A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee not exceeding the actual cost of providing the copy. The current schedule of reproduction costs shall be maintained by the District.

Article 90      Public Records and Privacy Policy (Cont'd.)

Sec. 90.5      Policy Subject to Public Records Act. This public records policy of the District shall at all times be subject to the California Public Records Act as it may be amended from time to time, and if there should be any conflict between that Act and this policy, the Act shall prevail.

Sec. 90.6      Identity Theft Prevention Program

In accordance with regulations issued by the Federal Trade Commission (16 CFR Part 681) implementing the Fair and Accurate Credit Transaction Act of 2003, the District has adopted an Identity Theft Prevention Program (Resolution No. 2009-18) which shall be fully implemented by staff. This program may be amended from time to time by resolution of the Board.

The purpose of the program is to detect, prevent, and mitigate identity theft in connection with all customer accounts, taking into consideration the level of risk for identity theft given the District's scope of services and the types of accounts. District staff dealing with customer accounts will be trained to recognize and respond to possible "Red Flags", as described in the policy.