

Public Records Act Policy

POLICY

The District has adopted this policy to ensure that members of the public may have access to public records concerning the conduct of the District's business. It is the policy of the District that public records will be disclosed upon request, unless the law provides an exemption from disclosure.

PROCEDURES

1. Purpose

This policy sets forth the procedures of the Santa Margarita Water District ("District") for handling requests to inspect and/or copy public records. This policy is established in accordance with Government Code section 6253.4, subdivision (a), which states: "Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section." It is designed to be in compliance with the California Public Records Act (Gov. Code § 6250 *et seq.*) and all existing laws pertaining to disclosure of public records. If any provision of this policy conflicts with current State of California or federal law, the law shall take precedence.

2. Definitions

As used in this policy, the following terms shall have the following meanings:

- (a) "District" shall mean the Santa Margarita Water District.
- (b) "Person" shall mean any natural person, corporation, partnership, limited liability company, firm, or association.
- (c) "District official" shall mean any elected official or employee of the District.
- (d) "Electronic communications" includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, "electronic communications" include e-mails, texts, voicemails, and also include communications on or within commercial applications (apps) such as Facebook Messenger, Twitter, WhatsApp, etc.
- (e) "Electronic messaging account" means any account that creates, sends, receives or stores electronic communications.
- (f) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and electronic communication transmitted by electronic messaging

account, electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the way the record has been stored.

- (g) "Public records" shall mean any writing containing information relating to the conduct of the District's business prepared, owned, used, or retained by the District or a District official, regardless of physical form or characteristics.
- (h) "District business" shall be construed broadly to mean information relating to the conduct of the public's business or communications concerning matters within the subject matter of the District's jurisdiction, including, but not limited to, pending or potential District projects, past or prospective District agenda items, or District budgets or expenditures involving District funds. Resolution of the question will involve an examination of several factors, including: (a) the content of the communication itself; (b) the context in, or purpose for which, the communication was written; (c) the audience to whom the communication was directed; (d) the purpose of the communication; and (e) whether the communication was prepared by a District official acting or purporting to act within the scope of his or her employment.
- (i) "Requestor" shall mean a person, or the representative of a person, who has submitted a request for records to the District in writing (including email, fax or other electronic method), by telephone or in person.

PROCEDURES

3. **Right to Inspect**

Disclosable public records of the District are open to inspection by any person at all times during the normal business hours of the District's offices, in accordance with Section 5 of this policy. Copies of disclosable public records may be obtained by any person, as set forth in this policy. Any disclosable portion of a record that can be reasonably separated from any portions of the record that are exempt by law shall be made available for inspection and/or copying after the exempt portions have been deleted or redacted. Any request for records and any responding documents may be subject to review by the District's legal counsel prior to any inspection of the records or delivery of copies.

4. **Records Exempt from Disclosure**

Records which are exempt from disclosure by law include but are not limited to the following:

- (a) Preliminary drafts, notes, interagency, or intra-agency 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. (Gov. Code § 6254, subd. (a).)

- (b) 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 the pending litigation or the claim has been finally adjudicated or otherwise settled. (Gov. Code § 6254, subd. (b).)
- (c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 6254, subd. (c).)
- (d) 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 all of the property has been acquired or all of the contract agreements are obtained. This provision does not include documents related to eminent domain actions. (Gov. Code § 6254, subd. (h).)
- (e) Confidential information that has been acquired by being present in a closed session. Any such information and documents are not public records subject to inspection, to the extent permitted by the Ralph M. Brown Act and the Public Records Act. (Gov. Code §§ 54957.2, 54963.)
- (f) Records the disclosure of which is exempted or prohibited under federal or state law (i.e., attorney-client privilege under the California Evidence Code). (Gov. Code § 6254, subd. (k).)
- (g) Social security numbers – State law requires local agencies to redact social security numbers from records before disclosing such records to the public. (Gov. Code § 6254.29.)
- (h) Test questions, scoring keys, and other examination data used to administer an examination for employment. (Gov. Code § 6254, subd. (g).)
- (i) The names, credit history, utility usage data, home addresses and home telephone numbers of utility customers are exempt from disclosure, with specific exceptions (e.g., court orders, etc.). (Gov. Code § 6254.16.)

This partial list of exemptions is subject to existing State and federal law, and any changes in the law are automatically incorporated into this policy. An expanded list of exempt documents and documents which are not deemed to be public records is provided in the California Public Records Act (Gov. Code § 6250, *et seq.*)

5. Requests to Inspect and/or Make Copies

Requests Must be Submitted to the Board Secretary During Normal Business Hours.

All requests for records must be submitted to the District during normal business hours when

District offices are open. Receiving requests during normal business hours helps District staff avoid any delays in responding to requests for inspection and/or copies of public records. This requirement complies with the Public Records Act mandate that public records must be “open to inspection at all times during the office hours of the state or local agency...” (Gov. Code § 6253, subd. (a).) (Emphasis added.) This requirement to submit records requests during normal business hours also complies with the Public Records Act provision that allows the District to “adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in [the Public Records Act].” (Gov. Code § 6253, subd. (e).)

Requests Should be Submitted in Writing to the Board Secretary. The District encourages members of the public to submit all records requests in writing to the Board Secretary’s office, preferably using the Public Record Request form attached as Exhibit “A” to this policy. Written requests reduce any misunderstandings between the requestor and District staff, which allows District staff to respond to records requests in a timely manner and with greater efficiency. However, the District will not deny a request for records solely because it is not submitted in writing.

All Verbal Requests Must be Submitted to the Board Secretary. If any member of the public chooses to make a verbal request for records, such requests will only be accepted through the Board Secretary’s offices during normal business hours when District offices are open. Personnel in other departments who receive verbal requests for records will direct the requestor to contact the Board Secretary’s office.

Requests Should Clearly Identify the Records. The requestor should, in writing, specify the records to be inspected/copied with sufficient detail to enable the District to identify the particular records. If the request seems ambiguous or unfocused, District staff will make a reasonable effort to obtain additional clarifying information from the requestor that will help identify the record or records. Pursuant to Government Code section 6253.1, District staff shall do all of the following, to the extent reasonable under the circumstances:

- Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- Describe the information technology and physical location in which the records exist; and
- Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

6. Providing Records/Making Determinations on Records Requests/Taking Time Extensions

Upon receipt of a request to inspect or copy records, District staff members shall, whenever possible, make disclosable public records promptly available. Pursuant to Government Code section 6253(f), if a request seeks records that are posted on the District’s website, District staff members may respond by directing the requester to the location on the District’s website where the responsive record is posted. If the requester is unable to access or reproduce the record from the

website, District staff members will provide a copy of the record upon payment of any applicable copy fees.

In the event a Public Records Act request is received by the District seeking electronic communications of District officials, the Board Secretary's office shall promptly transmit the request to the applicable District official(s) whose electronic communications are sought. The Board Secretary shall communicate the scope of the information requested to the applicable District official, and an estimate of the time within which the Board Secretary intends to provide any responsive electronic communications to the requesting party.

It shall be the duty of each District official receiving such a request from the Board Secretary to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The District official shall then promptly transmit any responsive electronic communications to the Board Secretary. Such transmission shall be provided in sufficient time to enable the Board Secretary to adequately review and provide the disclosable electronic communications to the requesting party.

When transmitting responsive documents to the Board Secretary or in the event a District official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the District official's electronic messaging account, the District official shall so notify the Board Secretary, by way of a written declaration. In addition, a District official who withholds any electronic communication identified as potentially responsive must submit a declaration with facts sufficient to show the information is "personal business" and not "public business" under the Public Records Act.

It shall be the duty of the Board Secretary, in consultation with the District's legal counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding District official shall provide the Board Secretary with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce". If an electronic communication involved both public business and a personal communication, the responding District official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the Board Secretary. The responding District official shall provide facts sufficient to show that the information is "personal business" and not "public business" by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the District official should consult with the Board Secretary or the District's legal counsel. The responding District official shall be required to sign a declaration, in a form acceptable to the District's legal counsel, attesting that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the Public Records Act request is not District business.

When a request seeks records that require research and/or inquiry, the District shall, within ten (10) days from receipt of the request, determine whether the request, in whole or in part, seeks disclosable public records in the District's possession. The Board Secretary shall promptly notify the requestor of the District's determination and the reasons for its determination. In

unusual circumstances, the time limit for providing the determination on a records request may be extended up to an additional 14 calendar days by written notice from the Board Secretary to the requestor. Such written notice shall explain the reason(s) for the extension and the date on which a determination is expected to be provided. As used in this policy, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the District having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

A response to a request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

7. Procedures for Requests for Inspection and/or Copies

Requests for inspection and/or copies of records determined to be disclosable will be handled as follows:

- (1) Requests Received by Mail - The Board Secretary will notify the Requestor of the fees to be paid to the District for copies of such records. Upon receipt of such fees, the Records Clerk shall prepare and mail copies of such records to the Requestor.
- (2) Requests Delivered in Person – Copies of requested documents will be provided after payment of fees in accordance with the established fee schedule (Exhibit "B"). As previously stated, requests for records should be submitted in writing, preferably by completing the attached Public Records Request form (Exhibit "A"). If the request is delivered verbally in person, the Board Secretary should provide copies of Exhibit "B" and the Public Records Request form (Exhibit "A") to the Requestor and invite him/her to complete the request form. The Board Secretary or other staff members may also assist the Requestor with completing the request form.
- (3) Requests Received by Telephone – In response to a telephone request for copies of District records, the Board Secretary will explain the records request procedure

(including established fees) as stated above. The Board Secretary should complete a Public Records Request form with the information provided by the Requestor over the telephone. Payment of fees will be required before copies are prepared.

- (4) Requests Received by Fax – In response to a faxed request for copies of District records, the Board Secretary will notify the Requestor of the fees to be paid to the District for copies of records. Payment of fees will be required before copies are prepared.
- (5) Requests Received by E-mail – In response to a request by e-mail for copies of District records, the Board Secretary will transmit to the Requestor an explanation of the procedures (including established fees) as stated above, and transmit Exhibits "A" and "B" to the Requestor. Payment of fees will be required before copies are prepared.

Any person in attendance at an inspection of District records may request a copy of any disclosable record being inspected. Upon receipt of the request and payment of the applicable fees, the Board Secretary will prepare copies of the requested disclosable records at the time of inspection. If a large number of copies is requested during or after a records inspection, District staff members may need additional time to make the requested copies.

8. Fees for Copies

The District shall charge fees for copies of identifiable public records or information as set forth in Exhibit "B."

Exhibit "A"

PUBLIC RECORD REQUEST FORM
(SEE ATTACHED)

PUBLIC RECORD REQUEST FORM

Date: _____

In accordance with the California Public Records Act (Gov. Code §§. 6250 et seq.), I am requesting to (check one):

- inspect the following public records receive copies of the following public records

[Please describe in detail the public records you are seeking. If possible, please include types of records, dates or date ranges for records, name(s) of project(s) or event(s), etc.]

I understand that the District will respond to all Public Records Act requests in compliance with State law.

For copies of the above-listed public records, I understand the District’s copying fees set forth in Exhibit “B” of the District’s policy will apply **or statutory fees for copying may apply**. I also understand that payment of fees is required in advance of delivery of any requested records. If more than fifty (50) pages are requested, the District may require a deposit before making copies.

Name/Signature of Requestor: _____

Address: _____

Phone/Fax/E-Mail: _____

Exhibit "B"

**PUBLIC RECORDS REQUEST
SCHEDULE OF FEES
(SEE ATTACHED)**

**PUBLIC RECORDS REQUEST
SCHEDULE OF FEES**

Description	Price
Copy Price per Page	\$0.10
Color Copies	\$0.25
Copy charges for oversized documents that must be outsourced for duplication/reproduction	Actual cost
Price for Public Records in electronic format, including video and/or audio tapes of Board of Directors meetings, when requested in electronic format, shall be calculated by the General Manager in accordance with Government Code Section 6253.9, as it may be amended from time to time.	Per Gov. Code Section 6253.9
Note: Payment is required in advance of delivery of any requested records.	

All fees are in compliance with the District's established fee schedule and are subject to change as the fee schedule is updated.