

RESOLUTION NO. 2024-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA ESTABLISHING A POLICY FOR RESPONDING TO PUBLIC RECORDS ACT REQUESTS

The Board of Directors of the Midway City Sanitary District hereby finds, determines, declares, and resolves as follows:

WHEREAS, the California Public Records Act (PRA) mandates that all public agencies provide access to public records to ensure transparency and accountability;

WHEREAS, having a clear policy for responding to Public Records Act requests demonstrates the District's commitment to transparency and fosters public trust in providing the community with access to information about the District's activities, decisions, and expenditures;

WHEREAS, implementing a PRA policy promoting access to public records aligns with principles of democratic governance;

WHEREAS, providing prompt access to public records enhances the District's relationship with the community by allowing residents, media, researchers, and other stakeholders to access information needed to make informed decisions and participate in civic affairs;

WHEREAS, the Board wishes to adopt a formal policy for responding to Public Records Act requests in order to encourage openness, transparency, accountability, and ethical conduct with its management of public records and to ensure all records requests are handled promptly and efficiently; and

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: The Midway City Sanitary District Policy for Responding to Public Records Act Requests attached to this Resolution is hereby adopted.

Section 2: A copy of the Policy shall be posted on the District's Internet website and made available to the public upon request.

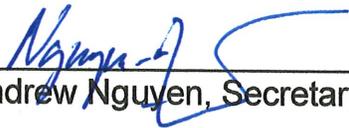
Section 3: This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED, at a regular meeting of the Board of Directors of Midway City Sanitary District of Orange County, California, held this 6th day of August, 2024.

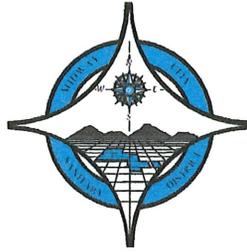


Mark Nguyen, President

ATTEST:



Andrew Nguyen, Secretary



Midway City Sanitary District

Policy for Responding to Public Records Act Requests

(Adopted August 6, 2024)

I. PURPOSE AND SCOPE

This Policy establishes procedures for responding to requests from the public to inspect or obtain copies of District records (“Records Requests”) in accordance with the Public Records Act (Gov. Code § 7920.000 et seq.) and the California Constitution (Art. I, § 3(b)). Nothing herein is intended to waive exemptions for particular records set forth in the Public Records Act or other law.

This Policy covers all District records that relate to the conduct of the public’s business and are prepared, owned, used, or retained by the District in the ordinary course of business.

“Records” generally include writings whether handwritten, typed, printed, emailed, faxed, or stored in any electronic or other medium, as well as pictures and video and sound recordings. For a full definition of “writing” as used in the Public Records Act, see Gov. Code § 7920.545.

Every person has the right to inspect any District record, except those records exempted from public disclosure. A Records Request may be made by any member of the public, whether or not a constituent of the District, or by any business, organization, or other entity.

The District is required to respond to a Public Records Act request within ten days.

II. RESPONSIBILITY

The Policy for Responding to Public Records Act Requests shall be administered by the Executive/Board Secretary, in consultation with the General Manager and the District’s legal counsel. When applicable, each department head or designee shall work with the Executive/Board Secretary to locate and compile documents which may be responsive to Public Records Act requests.

III. SUBMISSION AND RECEIPT OF PUBLIC RECORDS ACT REQUESTS

A. Where and To Whom Public Records Act Requests Should Be Made

Members of the public are encouraged to make Records Requests directly to the Executive/Board Secretary at the District’s offices.

B. When Public Records Act Requests Should be Made

Members of the public are encouraged to submit Records Requests 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 copying of public records. Records Requests submitted outside of normal business hours may not be considered or received by the District until the following business day.

C. How Public Records Requests Should be Made

Members of the public are encouraged to make Records Requests directly to the Executive/Board Secretary, in a writing that reasonably outlines categories of records sought. A written Records Request is preferred to a verbal Records Request because it provides a record of when the request was made and what was requested, and helps the District respond in a more timely and thorough manner. The District will accept written Public Records Act requests by mail, email, facsimile, or personal delivery during normal business hours. To help facilitate the efficient processing of Public Records Act requests, the District shall provide the public with an email address specifically intended for the submission of Records Requests.

The Executive/Board Secretary shall develop a standard Records Request Form for this purpose, which members of the public are encouraged to use when making Records Requests. The use of a standard Records Request Form will help the District better identify the records sought, follow up with the requestor, and provide more effective assistance to the requestor in compliance with the Public Records Act. The Records Request Form shall be made readily available to members of the public at the District's offices and on the District's Internet website.

Although the District encourages members of the public to make Public Records Act requests in writing, members of the public may make a verbal request for records, in person or by phone, during normal business hours. Verbal requests for public records should be directed to the Executive/Board Secretary, when possible, during normal business hours when the District offices are open. A verbal Records Request shall be transcribed by the District employee who receives the request and forward to the Executive/Board Secretary.

Although written requests made directly to the Executive/Board Secretary are preferred, the District cannot compel a party to submit a written request (verbal requests are permitted), nor to submit the request directly to the Executive/Board Secretary (requests may be made to any District employee, and submitted by letter, email, fax, phone call, or other means). Moreover, the District is responsible for assisting the requestor to make a focused and effective request. Thus, District employees should ask parties making a Records Request to submit the Records Request in writing to the Executive/Board Secretary, but should be prepared to accept and assist with Records Requests submitted by other means. In such cases, the employee receiving the request should seek to ensure the following information is included with the request:

- (a) the requestor's contact information (unless the requestor declines to provide it);
- (b) a reasonable description of the records requested; and
- (c) whether the requestor wants copies of the records or to inspect the records at the District.

When a Records Request is received by a District employee, he or she should immediately forward the Request to the Executive/Board Secretary, who will provide the request to the General Manager. The General Manager will determine if any other department heads should receive a copy. The General Manager and the District's legal counsel should determine if the Records Request covers

records that are confidential or otherwise exempt from disclosure under the Public Records Act, or if it appears that the Records Request might be related to potential or pending litigation.

IV. PROCESSING OF PUBLIC RECORDS ACT REQUESTS

A. Initial Processing of the Records Request

Upon receipt of a Records Request, the Executive/Board Secretary shall immediately do the following:

- (a) date stamp the Records Request;
- (b) scan the Records Request to the appropriate folder; and
- (c) enter the Records Request into the Public Records Act Log.

B. Gathering Records for Potential Disclosure

The Executive/Board Secretary shall ensure that a Records Request is distributed to each District department which might have responsive records and request that the department(s) provide the Executive/Board Secretary the following information within three business days:

- (a) whether there may be responsive records;
- (b) a time estimate to provide the potentially responsive records to the Executive/Board Secretary's office for review, and
- (c) whether the department anticipates that more than ten calendar days from the date of the request will be needed to locate all potentially responsive public records.

The Executive/Board Secretary should check in with the relevant departments periodically to ensure the Records Request is processed in a timely manner.

C. Response Deadlines

The District has a maximum of ten (10) calendar days from receipt of the Records Request to notify the requestor whether there are District records in response to the Request. If the tenth day falls on a weekend or holiday, the deadline rolls to the next business day. In "unusual circumstances," the Executive/Board Secretary can, by written notice to the requestor, extend the District's time to respond to the request for up to fourteen (14) additional days pursuant to Gov. Code §7922.535(b). The "unusual circumstances" recognized by the Public Records Act are:

- (a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the Records Request.
- (b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single Records Request.
- (c) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the Records Request or among two or more components of the District having substantial subject matter interest therein.

(d) The need to compile data, write programming language or a computer program, or construct a computer report to extract data.

D. Determining Whether Records Are Exempt from Disclosure

Several types of records are generally deemed confidential or otherwise exempt from disclosure under the Public Records Act. If the Executive/Board Secretary believes that a Records Request potentially involves exempt records, he/she should discuss the Records Request with the General Manager, who should confer with District's legal counsel for an opinion on the matter.

Many, but not all, of the exemptions are contained within the text of the Public Records Act (e.g., Gov. Code §§ 7923.600 et seq.). Examples of records that are usually exempt from disclosure are:

- (a) Attorney-client communications, which generally includes all communications between the District's legal counsel and a District employee or official;
- (b) Records related to pending litigation, including claims or lawsuits that are not yet adjudicated or settled;
- (c) Preliminary drafts of certain documents that are not retained by the District in the ordinary course of business, where the public interest in withholding outweighs the public interest in disclosure;
- (d) Social security numbers, voter registration records, home addresses, and other information the disclosure of which would constitute an unwarranted invasion of personal privacy;
- (e) Personal confidential information, like drivers' licenses, social security numbers and, in some instances, personal contact information;
- (f) Taxpayer information in connection with collection of local taxes;
- (g) Feasibility studies for public contracts or property acquisition (unless required to disclose under eminent domain law) - until the contract is entered or the property acquired;
- (h) Computer Software which includes computer systems, mapping programs and graphic programs;
- (i) Architectural and official building plans – plans may be inspected but may not be copied, absent approval from the owner and design professional;
- (j) Statements of personal worth or personal financial data required by the District and filed by an applicant to establish personal qualifications for a license, certificate, or permit; and
- (i) Where the public interest in nondisclosure clearly outweighs the public interest in disclosure (the catch-all exemption).

The foregoing are examples, not a complete list, of potential exemptions. Final exemption determinations shall be made by the General Manager, in consultation with the District's legal counsel.

E. Responding to the Records Request

The Executive/Board Secretary shall notify the requestor of the following:

- (a) whether the District has records responsive to the Records Request; and
- (b) whether all responsive records will be disclosed, or whether any records will be withheld or redacted because of an exemption.

If the District determines that some or all of the requested documents are exempt from disclosure, the response must identify the ground(s) for the exemption(s), and the name of the person responsible for such exemption determination. Such exemption determinations shall be provided in writing.

The District must promptly provide the requestor with the opportunity to obtain copies of public records or to inspect them before determining which records to have copied. (Gov. Code § 7922.530(a)). In most circumstances, the records will be produced or made available for inspection when the Executive/Board Secretary notifies the requestor that there are records responsive to the request (whether that response is made per the 10-day deadline or, in “unusual circumstances,” per the 14-day extension). However, when the Records Request involves a significant volume of documents, the District may take additional time to provide the records. But in all cases, the District must provide the records as soon as reasonably possible.

F. Copies of Records

If copies are requested, the District will charge a per page fee. For most records, the fee will not exceed ten cents (\$0.10) per page.; for some records, state law establishes the fee (e.g., for copies of official’s financial disclosures—Form 700.) (See Gov. Code § 7922.530(a) and Gov. Code § 81008.) The District's direct cost of duplicating unusual records— e.g., blueprints, computer disks, DVDs, electronic back-up tapes—are calculated on a case-by-case basis. In the Executive/Board Secretary’s discretion, if the Records Request does not involve a significant volume of documents and the requestor agrees, the Executive/Board Secretary may scan the records and send PDFs to the requestor electronically. If the request involves a substantial amount of copying, the Executive/Board Secretary should obtain payment before providing the copies.

G. Inspection of Records

Where only inspection is requested, the records will ordinarily be made available for inspection during all normal District business hours. If the request seeks review of voluminous records, a mutually-agreeable time will be scheduled for the inspection. The operational functions of the District will not be suspended to permit inspection of records during periods in which such records are reasonably required by District personnel in the performance of their duties. District personnel must be present during the inspection of records in order to protect the integrity of the records. Persons inspecting records shall not destroy, mutilate, deface, alter, or remove public records from the inspection location. If copies are some or all of the records are requested following the inspection, the District will charge fees for copies as discussed above.

H. Electronic Records

When requested, existing electronic records must be provided in electronic form. Such records must be provided in any electronic format requested as long as the format is one that is currently used by the District. The District is not required to reconstruct records that it no longer maintains in an electronic format. (Gov. Code § 7922.580(a)) The District is not required to produce documents in formats (e.g., word processing formats such as Microsoft Word) if it “would jeopardize or compromise the security or integrity of the original record or of any proprietary software” (Gov. Code § 7922.580(c)). In such situations, the District should convert the record to a “format which is less easily manipulated, such as PDF format.” The District may offer to produce records in an electronic format, but may not insist that they only be provided in electronic format. (Gov't Code § 7922.570(c)), 7922.580(b)) The District may charge for the added cost of producing electronic records if (1) the request calls for producing the record at a time different than the time the record would ordinarily be produced (e.g., a copy of the check register for a period other than the one typically prepared for the District Council); or (2) the request requires data compilation, extraction, or programming. (Gov. Code § 7922.575(b)).

I. Political Reform Act Records

Every report and statement filed pursuant to the Political Reform Act is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practical, but in any event not later than the second business day following the day on which it was received. (Gov. Code § 81008). No conditions will be imposed upon persons desiring to inspect or reproduce such reports and statements, nor will any information or identification be required from these persons. Copies shall be provided at a charge not-to-exceed ten cents (\$0.10) per page.

J. Public Records Act Request Log

The Executive/Board Secretary shall maintain a log of Records Requests in the Executive/Board Secretary's Office. Each log should summarize the following information, if available:

- (a) name of requestor;
- (b) summary of information requested;
- (c) whether public records were provided by a District department or the Executive/Board Secretary;
- (d) the date of the response(s) (including without limitation any and all initial responses, extensions, and production dates);
- (e) whether any documents were withheld and/or redacted and the authority therefore;
- (f) a description of the documents provided in response; and
- (g) the amount of fees collected.