



RESOLUTION NO. 3468

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT UPDATING THE POLICY AND PROCEDURES FOR THE CALIFORNIA PUBLIC RECORDS ACT

WHEREAS, pursuant to the provisions of the California Public Records Act (Gov. Code Section 7921.000 et seq.), and hereafter referred to as the "Act"), in the interests of openness and transparency and in keeping with the public's right of access to all public records in the District's custody and control, and subject to certain exemptions as provided by law, Ventura Port District ("District") should adopt procedures and formal a policy to ensure compliance with the Act.

WHEREAS, in adopting these procedures, it is the goal of the District to respond to all requests for information and documents under the Act in a prompt and consistent manner.

WHEREAS, a public record is "any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by an state or local agency regardless of physical form or characteristics (Gov. Code Section 7920.530).

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the Ventura Port District hereby adopts the Policy and Procedures for the California Public Records Act for the Ventura Port District, in the form attached hereto as Exhibit A and rescinds Resolution No. 3274.

PASSED, APPROVED, AND ADOPTED at a Regular Meeting of the Board of Port Commissioners of Ventura Port District held this 15th day of February 2023, adopted by the following vote:


AYES: Commissioners Blumenberg, Gardina, Rainey, Brennan, Stephens

NOES:

ABSENT:

ABSTAIN:

ATTEST:


Anthony Rainey, Secretary



Michael Blumenberg, Chair



EXHIBIT A
VENTURA PORT DISTRICT
POLICY AND PROCEDURES IMPLEMENTING THE CALIFORNIA PUBLIC RECORDS ACT

Ventura Port District ("District"), pursuant to the California Public Records Act ("Act") (Government Code §§ 7921.000 et seq.) and in keeping with the public's right of access to all public records in the District's custody, and subject to certain exemptions as provided by law or necessary to protect the individual privacy rights, adopts the procedures outlined below. In adopting these procedures, it is the goal of the District to respond to all requests for information under the Act in a prompt and consistent manner.

Section I.

Requesting Public Records.

- A. A public record is "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (Gov. Code §7920.530)
- B. All requests for public records of the District must be in writing and shall state whether the request is for examination of the records or for copies. The request must clearly identify the document, record or information requested and the person making the request and shall be dated and signed. The District may provide forms to be utilized by those persons requesting examination or copies of District records.
- C. The Board of Port Commissioners of the District designates the General Manager as the "reviewing official" under this policy, but on a case-by-case basis, the General Manager may delegate this function to another District employee. The reviewing official shall have exclusive authority for reviewing and approving requests under the Act. Immediately upon District staff's receipt of a public records request, the request shall be submitted to the reviewing official.
- D. The reviewing official must review and approve each request for inspection or copying before any public record of the District is released to the requesting party. Requests to examine public records of the District, will be processed promptly, provided that the reviewing official is available to supervise the examination and retrieval of records without interfering with the ordinary business operations of the District. If the request presents no questions or issues and identifies records that are routinely provided to members of the public, the reviewing official may direct that the request be complied with immediately, if at all possible. If the request is vague or too broad, the reviewing official, or his or her designee, shall work with the requesting party to assist in focusing the request, pursuant to Gov. Code §7922.600.

Section II.

Review for Exemption.

- A. In some cases, District staff will have to review the records further to determine whether all or any part may be privileged, confidential, or otherwise exempt from disclosure (for a list of some common exemptions, see Section V below). Where there is a question as to whether a particular exemption applies, the reviewing official may consult with District legal counsel prior to making a decision on a request. Where a portion of the record requested contains information, which is exempt from disclosure under the Act, the reviewing official

will make a determination as to whether the non-exempt portion of the record is reasonably segregable from the exempt portion of the record. Within ten (10) days from the date the request is received, the District will determine whether the request, in whole or in part, seeks copies or inspection of disclosable public records in the District's possession, and notify the requestor of such determination in writing. This written notice shall identify and be signed by the reviewing official. The District shall also determine the cost of reproducing the record or document (see Section IV, below), and include this information in the notice to the requesting party.

- B. If necessary, and notwithstanding Paragraph A, above, in unusual circumstances, as determined by the reviewing official in his/her reasonable discretion, the time to respond may be extended by not more than an additional fourteen (14) days. A notification of extension must be made in writing within ten (10) days of receipt of the initial request stating the reasons for the delay and the expected date of determination.
- C. If the reviewing official determines that the request is to be denied, then a written notice of determination shall be sent to the requesting party. Reasons for denial, include, but are not limited to: the record sought is privileged, confidential, or otherwise exempt from disclosure under the Act (see Section V below); or the record sought is not found in the District's files or records. All letters stipulating grounds for denial must be written only after consulting with District's legal counsel; sent only after it is approved by the General Manager; and must identify and be signed by the reviewing official. A copy of the denial will be provided to the General Manager and legal counsel.
- D. The District will retain in its records all written requests for inspection or copying of public records in accordance with the District's records retention policy and guidelines.

Section III.

Examination of Public Records.

- A. **Staff Response.** Public inspection of files/documents shall be handled by the responding staff as follows:
 - 1. The requesting party will be contacted to schedule a time for public record review or inspection. The District will provide an area at its offices for examination of the public records. Generally, public records should be open to inspection at all times during regular office hours of the District, but in scheduling an appointment for examination of public records, the reviewing official must be cognizant of the press of District business at any given time. Responding staff should endeavor to be as accommodating as possible to the requesting party regarding the scheduling of records inspections during those hours. Examinations must take place on District premises and will be subject to observation by District personnel.
 - 2. Before any public record, document, or file is provided for public review, inspection, or copying, the reviewing official or responding staff shall remove or redact any such materials, writings, or documents which statutes specifically make exempt or confidential (as described in Government Code § 7921.000 et seq. or in this policy.)
 - 3. The public record, document or file review will be monitored by assigned staff, as appropriate. This may include document or file review within view of assigned staff.

- B. Guidelines For Requestor During Inspection. The following procedures are for the sole purpose of protecting original records against tampering or theft. Any examination of original District records will be subject to the following rules:
1. No document or record, or any part thereof, shall be removed from the District premises or from the file, notebook, folder, or other compilation in which it is contained.
 2. No document or record shall be written on, marked on, or erased, nor shall any writing or information therein otherwise be removed, nor shall any person destroy, mutilate, deface, alter or falsify any document or record. Violations of this rule will be prosecuted pursuant to Government Code §6201.
 3. The party examining record shall comply with all instructions of District personnel, provided, however, that any restriction or termination of an examination may be appealed to the reviewing official or General Manager. District personnel may terminate or restrict the examination as may be necessary to preserve District records.
 4. The District shall make records available in electronic form or in hard copy upon request (Gov. Code §7922.580(b)); and fees for "inspection" or "processing" are prohibited (Gov. Code §7922.575(a)).

Section IV.
Recovery of Costs.

- A. District may charge a "statutory fee" set by the Legislature (not by local ordinance) if applicable, or the "direct cost of duplication." (Gov. Code §7922.530(a)) No charge will be made for staff time expended in the search, retrieval, review, deletion, or copying of requested records and documents. (Gov. Code §7922.530(a))
- B. If a request for electronic records either (1) is for a record normally issued only periodically, or (2) requires data compilation, extraction, or programming, copying costs may include the cost of the programming. (Gov. Code §7922.575(b))
- C. Payment of the cost of copying requested records may be by cash, check or money order, and must be made before the copies will be provided to the requesting party. Upon request and payment of mailing expenses in addition to the copying charges, the copied records will be mailed as directed by the requesting party. The District will not charge where the total costs are less than \$10.00.
- D. If reviewing official reasonably determines that the most efficient means of providing copies of requested documents is through the use of an outside or professional copying service, the District will notify the requesting party, and may require pre-payment of the estimated cost for the outside or professional service. The District will issue a refund to the requesting party if, after the outside or professional service has been completed, the cost was less than the amount pre-paid by the requesting party. Conversely, if the cost is greater than estimated, the requesting party shall pay the difference before the copies are released to the requesting party.

Section V.
Exempt and Non-exempt Records.

- A. Exempt Records. The following District records are exempt from disclosure. However, this list is not all inclusive of applicable exemptions, nor is it meant to cover every exemption. If reviewing staff or the reviewing official is unsure whether an exemption not listed here applies, District's legal counsel should be consulted for guidance.
1. Preliminary drafts, notes, interagency and intra-agency memoranda which are not retained by the District as permanent records, where circumstances justify nondisclosure. (Gov. Code§ 7927.500)
 2. Records pertaining to pending litigation to which the District is a party, or to claims filed against the District, which were created in connection with the litigation and were intended to be confidential, until the pending litigation or claim has been finally adjudicated or otherwise settled. (Gov. Code§ 7927.200)
 3. Personnel records of District staff and public employees. (Gov. Code § 7927.700)
 4. Medical, dental and other insurance records of District employees and Commissioners, if applicable. (Gov. Code§ 7927.700)
 5. Geological and geophysical data and similar information relating to utility systems development which are obtained in confidence from any person. (Gov. Code§ 7927.300)
 6. Home addresses of District employees and Commissioners. (Gov. Code §7928.300.)
 7. Test questions, scoring keys and other examination data used for employment tests administered by the District. (Gov. Code§ 7929.605)
 8. The contents of real estate appraisals or engineering or feasibility estimates, and evaluations prepared relative to the acquisition of property or to construction or supply contracts, until the property or agreement has been obtained. (Gov. Code § 7928.705)
 9. Closed session minutes and legal memoranda and other materials distributed in a closed session of the Board of Port Commissioners held pursuant to Government Code §54956.9. (Gov. Code§ 7927.205)
 10. Attorney-Client discussions are confidential, even if the District is the client. (Gov. Code§§ 7927.705, 7927.205, 7930.110.)
 11. Records, the disclosure of which, would violate the Evidence Code. (Gov. Code § 7927.705.)
 12. Records, which assess vulnerability to a terrorist attack or other criminal act intended to disrupt the District's operations. (Gov. Code§§ 7929.200; 7929.210.)
 13. Records, which contain critical infrastructure information, as defined in Gov. Code§ 7929.205.

14. Where the facts of a particular case dictate that the public interest served by not making the record public clearly outweigh the public interest served by disclosure of the record, the request may be denied. The reviewing official should consult with District legal counsel prior to making such a determination. (Gov. Code §7922.000)
15. Sensitive financial information submitted to the District by tenants as part of the District's real estate operations, which are intended to be confidential by the tenant and which are received by the District with the understanding they will be dealt with confidentially to the extent allowed by law.

B. Non-Exempt Records. The following District records are subject to disclosure under the Act:

1. Minutes of Board meetings and agenda materials provided to Commissioners.
2. Auditors' reports, budgets and financial reports of the District.
3. All District ordinances, resolutions, regulations, policies and procedures.
4. All Political Reform Act filings by District officers and Commissioners.
5. All correspondence or memoranda maintained in the ordinary course of District business and not subject to any statutory exemption.
6. Employment contracts (Gov. Code §7928.400).

**VENTURA PORT DISTRICT
Public Records Request Form**

Requesting Party (NAME): _____

Mailing Address: _____

Phone Number: _____ Email: _____

1. The Requesting Party requests (CHECK ONE):

_____ That the Ventura Port District provide the documents, records and information described below for the Requesting Party to examine at the District's offices during District business hours.

_____ That the Ventura Port District provide the Requesting Party with photocopies of the documents, records and information described below.

2. Description of the documents, records and information requested. (Description must be specific enough to identify the public records sought).

3. If the request is for copies of public records, the Requesting Party (CHECK ONE):

_____ Requests that copies be emailed to the email address specified above or put on a USB drive provided by the requestor.

_____ Will return to pick up the copies and will pay for copying costs at the time of pickup. (Requesting Party should leave a phone number at which they may be contacted when the copies are ready.)

_____ Requests that the copies be mailed to the address specified above. (All copying and postage costs must be paid before the copies will be mailed. The District will notify the Requesting Party of the amount of copying costs and postage by telephone or mail at the Requesting Party's choice.)

Dated: _____

Signature of Requesting Party

FOR OFFICE USE ONLY

Reviewing Official _____

Received On _____

Approved By _____

Number of Copies _____

Copying Cost _____

Date Paid _____