

**ELK GROVE WATER DISTRICT,
A Department of the
FLORIN RESOURCE CONSERVATION DISTRICT**

**POLICY NO. 31
ADOPTED BY FRCD RESOLUTION NO. 04.24.13.01**

PUBLIC RECORDS ACT REQUESTS

I. PURPOSE

To set forth the Florin Resource Conservation District/Elk Grove Water District (“District”) policy and procedure governing records inspection.

II. POLICY

Under the California Public Records Act, Government Code sections 6250-6276.48, the public may review or obtain copies of most District records. Public records of the District are open to inspection during normal office hours and every person has a right to inspect these records. A request for District records must reasonably identify the records sought to enable District staff to locate and make them available for review or copying.

In response to requests for District records that are clearly disclosable and easy to access, District staff members will make every effort to provide prompt access to such records. For other requests that may require staff to search for and review potentially responsive records, the District will advise the requester in writing within 10 calendar days after receiving a records request whether the District possesses and will provide the requested records and the basis for not disclosing any requested records, in whole or part. The District also will advise when the records will be available for its initial review or when copies will be available for pick up. In certain cases, the District may extend the time for its initial response to a records request for up to 14 additional days. Also, certain District records are not considered public records and may be withheld from public review. For example, employee personal information is not a public record.

If requested, the District will make photocopies of public records in accordance with Government Code section 6253(b). The copying charge is 10 cents per standard-sized page, which reflects the District’s direct costs. Payment is required at the time copies are provided.

III. DEFINITIONS

As used in this section:

- a) “Public Records” includes any writing containing information relating to the conduct of public business prepared, owned, used or retained by the District regardless of physical form or characteristics.

- b) “Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by 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 manner in which the record has been stored. Writing does not include compilations of writings created outside the normal course of District business.

IV. EXEMPTIONS

Nothing in this section requires disclosure of the following records:

- a) Preliminary drafts, notes, or intra- or inter-agency memoranda not retained by the District in the ordinary course of business, if 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 in 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 (the Government Claims Act), until such litigation or 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) Geological and geophysical data, plant production data and similar information relating to utility systems development obtained in confidence from any person (Gov. Code § 6254, subd. (e).);
- e) Test questions, scoring keys and other examination data used to administer examinations for employment (Gov. Code § 6254, subd. (g).);
- f) 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 the contract agreement has been obtained. The law of eminent domain will not be affected by this provision (Gov. Code § 6254, subd. (h).);
- g) Records exempted or prohibited from disclosure pursuant to provisions of Federal or State Law, including, but not limited to, provisions of the Evidence Code relating to privilege (Gov. Code § 6254, subd. (k).);
- h) Data, plans, drawings, schematics, manuals and other documents related to the security and protection of the District’s water supplies if the public interest served by not disclosing the record clearly outweighs the public interest served by

disclosure of the record, pursuant to the balancing test in Government Code section 6255; and

- i) Private information pertaining to any customer, director or employee that is explicitly exempt under Government Code sections 6254(c) and 6254.16 or that may be exempt because of personal safety and privacy concerns that meet the balancing test under Government Code section 6255, including, but not limited to, personal identifying information and private data such as social security numbers, credit history, water usage, and confidential personnel and financial records.
- j) Other records the disclosure of which is not required by law.
- k) Computer software developed by the District for internal use and not otherwise made available to the public except by selling, leasing, or licensing such software for commercial or non-commercial use. The District's proprietary computer software may include computer mapping systems, computer programs and computer graphics systems. (Gov. Code § 6254.9.)

V. ADDITIONAL PUBLIC RECORDS

Notwithstanding the foregoing:

- a) Every employment contract between the District and a public official or public employee is a public record. (Gov. Code § 6254.8.)
- b) An itemized statement of the total expenditures and disbursements of the District provided for in Article VI of the California Constitution will be open for inspection.
- c) Documents concerning an open session item of a noticed public meeting that are provided to all or a majority of the Board or a committee less than 72 hours before that meeting shall be made available for public inspection. (Gov. Code § 54957.5, subd. (b).)
- d) Writings that are distributed during a public meeting if prepared by the District or a member of the Board shall be made available for public inspection at the meeting, or after the meeting if prepared by some other person. (Gov. Code § 54957.5, subd. (c).)

VI. JUSTIFICATION FOR WITHHOLDING OF RECORDS

The District will justify withholding a record by demonstrating the record is exempt under the express provisions of Government Code sections 6254 and 6254.16 and any other applicable statute (including the records listed about in section IV) or by demonstrating that the public interest served by not making the record available clearly outweighs the public interest served by disclosing the record. Written notice of intent to withhold records stating the reasons for withholding the records and an estimated time for when releasable documents will be furnished will be provided to

the person requesting the record within 10 days of receipt of the request, or later if unusual circumstances apply, as required by Government Code sections 6253, subdivision (c) and 6255, subdivision (b). Any written notice stating the reasons for withholding records shall include the names and titles or positions of each person responsible for the denial, as required by Government Code section 6253, subdivision (d).

VII. CONFIDENTIALITY OF CERTAIN RECORDS

While the District supports and implements the legal principles underlying the “government sunshine laws”, including the Public Records Act and the Ralph M. Brown Act, it also recognizes the equally important constitutional principles underlying its customers’, directors’ and employees’ rights to privacy in their personal information. Such information includes those items described in Section IV of this Policy. The District will not disclose private information of any customer, director or employee unless compelled by a legally-authorized subpoena, court order or order of another government agency with the power to obtain such records or authorized by the customer, director or employee in writing. In cases where there is no clear exemption from disclosure, the District will attempt to contact the customer, director or employee whose private information is being requested, inform the customer, director or employee of the request, and provide that person or entity with the opportunity to object to the request and if desired, to seek a court order to protect the private information being requested from disclosure.

VIII. COPIES OF RECORDS

- a. A person may obtain copies of identifiable records, preferably by written request on the District’s request form, although verbal requests are acceptable. The District Secretary is the custodian of the District’s records and will provide the requestor with copies of all requested disclosable records. For requests for electronic records, the District will make information available in the same electronic format in which it holds the information, unless its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. The District is not required to reconstruct a record in electronic format if it no longer has the record available in electronic format. Officers, agents and employees of the District are not required to request records in compliance with this section when acting within the course and scope of employment or office holding. If the District is unable to provide requested copies within 10 days of the request, it will advise the requestor in writing of the date when the record will be provided.
- b. The charge for each page of plain paper standard black and white letter or legal size photocopies will be 10 cents. Large format documents, maps, color copies and similar specialized documents will be charged at cost, which the District will determine and advise the requestor of and receive approval from the requestor before copying begins. For requests for electronic records in

electronic format, requesters are responsible to pay the cost to construct a record and the cost of any programming and computer services necessary to produce a copy of the record, as provided in Government Code section 6253.9. Payment for all services is required at the time copies are provided, although the District may require a deposit as provided below in subdivision (c) before beginning copying and/or sending the job to an outside copy service, in which case the copy service's actual charges will be passed through to the requestor. A certified copy of each requested record will require an additional payment of \$3.00. No charge will be imposed for research.

- c. The District Secretary may require a person who desires to obtain a copy of a record to deposit an amount equal to the estimated fees for copying prior to receiving the record. The portion of the deposit not required will be refunded. If the deposit is insufficient, the District may require the requestor to pay any balance of copying charges due before any records are released.

IX. REQUESTS FOR CURRENT MATERIALS

- a. The District Secretary will maintain a duplicate copy of the last approved Board meeting minutes and the agenda and written materials distributed to the Board for discussion or consideration at the next scheduled Board meeting. These records will be maintained in the District library located in the District's administrative office. Public records discussed during a public meeting but not previously available will be made available before the commencement of discussion at such meeting or as soon thereafter as practicable.
- b. These records also include those public meeting documents described in subdivision V of this Policy.
- c. No charge will be imposed for the use or review of the records described in this section. The District will, however, impose a copy charge if a copy of a public counter record is requested.
- d. The District also posts on its Web site copies of all public counter records, archived Board meeting minutes and agendas, current Board policies and other important District documents. Requestors are encouraged to view and obtain copies of available documents on the District's Web site by visiting www.egwd.org.

X. RECORDING-KEEPING

The District Secretary will maintain a record of requests for inspection that are denied and the reasons for the denial, in accordance with the District's records retention policy and/or applicable records retention statutes.