

VICTORIA COUNTY NAVIGATION DISTRICT PUBLIC INFORMATION POLICY

I. POLICY

The Texas Public Information Act (the Act) gives the public the right to request access to government information. It shall be the policy of the Victoria County Navigation District (the “District”) to comply with the provisions of the Act. All information that is collected, assembled or maintained by or for the District is deemed public information under the Act shall be made available to the public during normal business hours according to this Policy. The Act applies only to information that already exists. This Policy will govern requests by members of the public for access to or copies of District information except for those records covered by other statute or special policies or deemed confidential under the applicable laws of the State of Texas.

II. DEFINITIONS

“**Normal Business Hours**” means between 8:00 a.m. and 5:00 p.m. Monday through Friday, except for District-observed holidays.

“**Requestor**” means a person making a request for public information.

“**Executive Director**” means the person serving as the Executive Director of the District.

“**Public Information**” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the District or for the District, which the District owns or has the right of access. The term “Public Information” applies to recorded information in practically any medium, including paper; film; a magnetic, optical or solid state device that can store an electronic signal; tape; mylar; linen; silk and vellum. The general forms in which media containing public information exist include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, Photostat, sound recording, map and drawing and a voice, data, or video representation held in computer memory. (Sec. 552.002 Tex. Gov’t Code Ann.)

“**Attorney General**” means the Office of the Attorney General of the State of Texas.

III. EXCEPTIONS TO DISCLOSURE (CONFIDENTIAL INFORMATION)

1. The Act provides certain exceptions to disclosure of information that is considered confidential by law, either constitutional, statutory, or by judicial decision. When the District receives a written request for information the District wishes to withhold under one of the exceptions, the District shall follow the procedures set out in the Act. This

generally means that the District must seek an Attorney General decision within ten (10) business days after receipt of the request and state which exceptions apply, notify the Requestor of the referral to the Attorney General, and notify third parties if the request involves their proprietary information.

Some common examples of confidential information are:

- a. Certain personnel information;
- b. Certain documents related to litigation; and
- c. Trade secrets/proprietary information that would give an advantage to competitors or bidders.

District employees and authorized representatives should refer to the Act and any interpretative literature produced by the Office of the Attorney General, including the Public Information Act Handbook, for more information concerning exceptions to disclosure.

IV. PROVIDING PUBLIC ACCESS TO INFORMATION

A. SIMPLE REQUESTS

1. District employees or authorized representatives may provide verbal responses to informal, verbal inquiries regarding readily available District information.
2. The Executive Director or authorized representatives may respond to formal requests for information that is obviously public in nature and not excepted from public disclosure, provided the information is readily available. Such information would include the following type of documents.
 - a. The District's Tariff(s)
 - b. Meeting Minutes
 - c. Maps
 - d. Audits
 - e. Budgets

District employees or authorized representatives shall ask the Requestor for a written request, if the request is unclear or if the Requestor is seeking a large amount of readily available information.

3. For the benefit of citizens, certain District information is available on the District's website. As a courtesy, District employees or authorized representatives may inform requestors that the information being sought is also available on the District's website at www.portofvictoria.com.

B. FORMAL REQUESTS (WRITTEN REQUESTS)

“The Act is triggered when a person submits a written request to a governmental body. The request must ask for records or information already in existence. The Act does not require a governmental body to create new information, to do legal research, or to answer questions. In preparing a request, a person may want to ask the governmental body what information is available. To make a request, a requestor may be required to submit a request in writing.” “...the governmental body’s duty under section 552.301(a) to request a ruling from the attorney general arises only after it receives a written request” – Public Information Act Handbook

1. District employees or authorized representatives are not required to create new information, to do legal research or to answer questions under the Act.
2. Except as otherwise provided in this Policy, a request for public information, also known as an open records request, must be submitted in writing. The Requestor may use an Open Records Request form provided by the District (see Exhibit A) or any other written document that provides the following information:
 - a. The Requestor's full name and address;
 - b. The Requestor's telephone number; and
 - c. A clear description of the information being sought.
3. Requests for access to District information must be made to the District's Executive Director.

A) THE FOLLOWING PROCEDURES SHOULD BE FOLLOWED WHEN A REQUEST FOR INFORMATION IS RECEIVED:

1. The Executive Director should record the date the request is received. The Executive Director may undertake to respond to the request or, at his/her discretion may refer the request to the District's Legal Counsel for handling.

2. District employees or authorized representatives cannot ask the Requestor why he/she is requesting the information. A Requestor's motivation for requesting public information cannot be considered by the District.
3. A request should reasonably describe the information being sought. If the request is unclear or ambiguous, or the responsive information cannot be identified based on the request, the Requestor may be asked to clarify the request.
4. If a large amount of information has been requested, a District representative may discuss with the Requestor whether the scope of the request might be narrowed.
5. The District must make a good faith effort to relate a request to information that exists.
6. In an effort to assure that all requests are answered in a timely manner, a copy of each request shall be sent to the District's Legal Counsel within 24 hours of receipt.
7. District representatives should review the request to determine whether the information sought is open to the public.
8. If it is determined that the information is public, the District should arrange for the information to be made available to the Requestor in a timely fashion.
9. Public information must be provided in the format requested as long as the District is technically capable of providing data in the requested format. In some instances, programming and manipulation of data may be necessary to comply with the request. In such cases, appropriate charges will be assessed to the Requestor in accordance with the cost provisions of the Texas Administrative Code, Section 70.3.
10. If the information is in active use, or if the information cannot be provided within ten (10) business days after the date the request is received, the District must notify the requestor in writing of that fact and set an expected date and hour within a reasonable time when the information will be available for inspection or duplication. The written notice must be provided to the requestor within ten (10) business days after receiving the request.

- (a) The District's Legal Counsel should be notified within five (5) business days of receipt of the request if additional time will be needed and when the information can be made available to the Requestor.
 - (b) The District's Legal Counsel will send the written notice to the Requestor.
11. After the information is provided to the Requestor, the District shall attach a copy of the information that is provided to the request and retain it for the District's official records.
 12. If it appears that the information falls within one of the exceptions to public disclosure, the request should be immediately forwarded to the District's Legal Counsel for review and consideration. A copy of the information being sought shall also be provided to the District's Legal Counsel, unless the request is for a large volume of information.
 13. If appropriate, the District's Legal Counsel will timely prepare and submit a request to the Attorney General for an opinion, and provide appropriate notifications to the Requestor.

B) THE FOLLOWING GUIDELINES ARE TO GOVERN THE AVAILABILITY OF INFORMATION:

1. The information should be made available during regular business hours in the offices of the District.
2. Generally, a Requestor may choose to inspect or to copy public information, or to both inspect and copy public information. When copies are requested, a District employee or representative shall make copies on behalf of the Requestor.
3. Whenever practical, copies of original records should be made available to the Requestor for review. Original records may not be removed from the offices of the District. Requestors may be allowed to review original records under the supervision of a District employee or representative.
4. The examination of information by a Requestor may be interrupted by the District if the information is needed for use by the District.
5. The District and any District employee or authorized representative dealing with requests for public information shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose

behalf the request is made, or the status of the individual as a member of the media.

6. The District is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the District for research purposes if the book or publication is commercially available to the public.
7. The District shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the District.
8. Once the information is provided, the District employee or authorized representative shall document that the Requestor has received the information by one of the following methods:
 - a. The Requestor should be asked to sign and date the District's copy of the request if the information is picked up in person.
 - b. If the information is faxed to the Requestor, the fax transmittal sheet along with the confirmation showing the date and time should be kept and attached to the request.
 - c. If the information is e-mailed to the Requestor, a copy of the e-mail shall be printed out, showing the date and time the e-mail was sent, and attached to the request.
 - d. If the information is mailed, the sender shall make a note of the date the information was mailed on the District's copy of the request.

V. COSTS

The following guidelines are to be used in determining and collecting costs of providing information.

1. The District employee or authorized representative should carefully document expenses related to producing the information for each request, including time spent, supplies used, number of copies, etc...
2. Except as otherwise provided in this Policy, the District will charge for public information in accordance with the cost rules established by the Texas Administrative Code, Title 1, Part 3, Chapter 70.

3. Charges of less than one dollar (\$1.00) shall be waived (i.e. no charges for less than 10 pages of standard size paper copies at 10 cents (\$0.10) each).
4. Whenever labor charges are applicable, charges for less than one-half (1/2) hour of labor shall be waived.
5. The charge for information sent to the Requestor via e-mail shall be waived.
6. A personnel charge (cost of labor) may not be billed for complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied or gathered are located or stored in two or more separate buildings that are not physically connected to each other.
7. Certain information developed by the District for the purposes of informing the public such as brochures, pamphlets, tariffs, etc... may be provided at a special fee established by the District as appropriate.
8. The District shall not charge for making available for inspection information maintained in the District's administrative offices in standard paper form. Charges are permitted when the District is asked to provide, for inspection, information that contains both confidential information and public information. When such is the case, the District may charge to make a copy of the page from which information must be edited.
9. In response to requests for access, for purposes of inspection only, to information that is maintained in other than standard form, the District may charge the requesting party the cost of programming or manipulation of data required to make available such information.
10. If the estimated costs to provide information will exceed \$40.00, the District must provide a written, itemized estimate and notify the requestor of less costly alternatives. If the requestor does not respond to the written estimate within ten (10) days of the date the estimate was sent, the request is considered to be automatically withdrawn.
 - a. The Executive Director should notify the District's Legal Counsel whenever the estimated costs will exceed \$40.00.
 - b. The District's Legal Counsel will send the written estimate to the Requestor. The information should not be produced and/or copied until a

response is received from the Requestor authorizing the District to proceed with the response.

11. If the District determines that the estimated charges will exceed those detailed in the original statement by 20 percent or more, the District must send the Requestor an updated statement of all such estimated costs. If the Requestor does not respond in writing within ten days after the date such updated statement is sent, then the request is considered withdrawn.
12. If the estimated costs exceed \$50.00, the District may require a bond, prepayment or deposit before providing the public information.
13. If a Requestor has an overdue balance exceeding \$100.00 for public information, the District may obtain a security deposit before processing additional requests from the Requestor.
14. The Executive Director should determine whether providing the information primarily benefits the general public. In such cases, the fees for providing the information may be, but are not required to be, waived.
15. If the District determines that a Requestor has made a request for the same information that has previously been furnished to the Requestor, the District may either:
 - a. Furnish the information again, or
 - b. Certify in writing when the information was previously provided and that no subsequent additions or corrections have been made to the information.

VI. MISCELLANEOUS

District employees or authorized representatives should address any questions regarding the policy and procedures for dealing with an Open Records Request to the District's Legal Counsel.

Requestors may submit requests for information to the Executive Director in person, by mail, via fax or e-mail.

A request sent by facsimile (fax) must be sent to the Executive Director at (361) 570-8854.

A request sent via e-mail must be sent to OpenRecordsRequest@portofvictoria.com.

Requests may be mailed to 1934 FM 1432, Victoria, Texas 77905.

Any matters or issues concerning requests for public information not addressed by this Policy shall be governed by the provisions of the Texas Public Information Act and any other applicable laws or policies.

Helpful information on the Public Information Act is available at:

The State of Texas' Attorney General's Website: www.oag.state.tx.us.

Approved as of the date noted below:

VICTORIA COUNTY NAVIGATION DISTRICT

By: Robby Burdge, Chairman (date)

EXHIBIT "A"

REQUEST FOR PUBLIC INFORMATION FORM

**VICTORIA COUNTY NAVIGATION DISTRICT
REQUEST FOR PUBLIC INFORMATION**

Information should be submitted to the District's Executive director via mail, fax, in person or e-mail.

Address: 1934 FM 1432, Victoria, Texas 77905
Phone: (361) 570-8855
Fax: (361) 570-8854
E-mail: OpenRecordsRequest@portofvictoria.com

Please print legibly or type the following information:

Date of Request: _____

Name of person requesting information: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Alt. phone Number: _____

Fax: _____ E-mail Address: _____

Please detail your request below, providing as much information as possible; i.e. names, documents, locations, dates. You may attach additional sheets if needed.

For Internal Use Only:

Received on: ____/____/____.

Information Made Available/Provided by: _____ on ____/____/____.