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OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
915 I STREET
SACRAMENTO, CA
95814-2684

October 26, 1988

916-449-5704

APPROVED
BY THE CITY COUNCIL

City Council
Sacramento, California

NOV 1 1988

Honorable Members in Session:

OFFICE OF THE
CITY CLERK

**SUBJECT: UPDATE TO EXISTING CITY POLICY ON PUBLIC ACCESS TO
GOVERNMENTAL RECORDS**

SUMMARY

This report is in response to a request made by Councilmember Mueller concerning a City policy on public access to City records and documents.

The California Government Code, Section 6250 et seq., declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. In 1975, a Resolution (Exhibit A) was adopted by the City Council which established a procedure for the disclosure of public records and provided a fee schedule for copies of public documents. However, following an analysis of the existing Resolution it has been concluded that the current policy should be updated.

This report was heard by the Law and Legislation Committee on October 20, 1988. The Committee reviewed and approved the resolution, which includes suggested language clarification, and recommends its adoption.

BACKGROUND

The California Government Code (Sections 6250-6261) defines the right of the public to have access to information. These sections of the California Government Code are better known as the California Public Records Act. Generally, the Public Records Act defines public records as those used in the conduct of the public's business regardless of physical form or characteristics. The Act also exempts certain records from disclosure such as personnel records, preliminary drafts, and records of investigations. On December 30, 1975,

the City Council adopted Resolution No. 75-626 which established a procedure for the disclosure of public records and provided a fee schedule for copies of those records.

The current policy, which seemed to be unfamiliar to many City departments, warranted an analysis. The review process included input from various departments and a survey of other cities policies. Due to a desire to apply definitions within the policy, a need for a more definite procedure, and modifications in responsibility and the fee schedule the current policy demonstrated the need to be updated.

The recommended significant changes to the City of Sacramento's public access policy are:

- o a definition of public records and those exempt from required disclosure is addressed. (Section 3.)
- o an outlined procedure is incorporated. (Section 5.)
- o a section regarding the availability of the resolution has been added. (Section 8.)
- o the fee schedule has been omitted as an exhibit -because fees are periodically changed, the Fee and Charge report should be utilized instead.
- o the disclosure form has also been omitted as an exhibit-it is not needed.

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution which establishes the policy and procedure for the disclosure of public records.

Respectfully submitted,

Michelle M. Basurto

MICHELLE M. BASURTO
Budget Technician

RECOMMENDATION APPROVED:

Walter J. Slipe, Jr.

For: WALTER J. SLIPE
City Manager

November 1, 1988
All Districts

Attachment

RESOLUTION NO. 88-939

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

APPROVED
BY THE CITY COUNCIL

NOV 1 1988

RESOLUTION SUPERSEDING RESOLUTION 75-626
ESTABLISHING THE POLICY AND PROCEDURE FOR
DISCLOSURE OF PUBLIC RECORDS

OFFICE OF THE
CITY CLERK

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. PURPOSE

It is the intent of the City Council in adopting this Resolution to provide procedural guidelines for disclosure of City of Sacramento public records in accordance with provisions of the California Public Records Act (Government Code Section 6250 et seq.).

SECTION 2. POLICY

It is the policy of the City of Sacramento to fully cooperate with the public and honor its obligation under law to provide public access to documents which are public records while protecting individuals' rights to privacy.

SECTION 3. DEFINITIONS

1. PUBLIC RECORDS: Any document containing information relating to the conduct of the public's business, prepared, owned, used or retained by the City regardless of physical form or characteristics.
2. EXEMPT RECORDS: Exempt records include, but are not limited to, the following:
 - a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the department in the ordinary course of business;
 - b) Records pertaining to pending litigation to which the City is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code;

- c) Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- d) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;
- e) Records of complaints, or investigations conducted, or intelligence information or security procedures compiled for correctional, law enforcement, or licensing purposes;
- f) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;
- g) Contents of real estate appraisals, engineering or feasibility estimates and evaluations relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreements obtained;
- h) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;
- i) Library circulation or registration records, or library and museum materials made or acquired and presented solely for reference or exhibition purposes;
- j) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;
- k) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish personal qualification for the license, certificate, or permit applied for;

IN ADDITION, any record not expressly exempted is nonetheless exempt if the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

SECTION 4. EXAMINATION OF RECORDS

All public records, not exempt from disclosure under the Public Records Act, shall be available for inspection by any person during regular City office hours.

The examination of the records of any department shall be carried out in such location and under such supervision as the head of the department may reasonably deem appropriate to safeguard the records and maintain the efficient conduct of business.

SECTION 5. PROCEDURE FOR DISCLOSURE

At any time during this process if there are questions concerning the validity of the request or possible exemption of the record, the department head may seek the City Attorney's advice.

1. The initial request should be in writing and directed to the department responsible for the requested record to insure prompt and efficient service.
2. Whenever possible, records will be made available at the time of the request. However, staff duties take precedence over lengthy or unusual requests for records.
3. When a person makes a request, either verbally or in writing, for access to or copies of public records, the department head (or staff designee) handling the request will decide if the record is exempt from disclosure.
4. If a verbal request is made and the record cannot be made immediately available, the request must then be made in writing and directed to the department responsible for the particular record.
5. In accordance with Government Code Section 6256, the City shall, as soon as reasonably practicable, but within ten (10) days after receipt of the written request, notify the requester of the determination of the request and the reason thereof.
 - a) If the determination is that the requested record is exempt refer to Section 7.
 - b) If the record is not exempt from disclosure, it and/or copies will be made available at the time of the request, if at all possible.
 - i. If the person making the request only wants to inspect the records, all efforts will be made

by staff to have it available at the time of the request.

- ii. If immediate copying is reasonably convenient for staff, then copies will be made while the requester waits.
- iii. If, at the time of the request, the duties of the City employee or the amount of material to be located or copied, or other matters make immediate inspection or copying of the requested materials unreasonable, then the department head or staff designee shall so inform the requester and make arrangements to have the inspection or copying done at a later time.

- 6. The City may not charge a fee for the "inspection" of a record. However, the public has a right to obtain copies of public records and the City may charge a fee to cover the cost of reproduction.
- 7. Any money collected for the costs of reproduction shall be recorded as a cash transaction and deposited as revenue.

SECTION 6. COSTS FOR COPIES OF RECORDS

A fee shall be charged for a copy of any public record made upon request, at the rates set forth in the City's Fee and Charge Report, unless mandated by Federal or State law to be free of charge.

The person requesting such copy shall make payment of such cost to the department head (or staff designee), who shall certify the amount paid on such form approved by the Revenue Manager and return a duplicate thereof to such person. The department head (or staff designee) shall then provide to the person the copy requested.

SECTION 7. REFUSAL TO DISCLOSE/REVIEW

When in the opinion of a department head, a document should not be disclosed to a person requesting such disclosure, the department head shall state the reason for refusing disclosure to such person.

Any person dissatisfied with the determination of a department head regarding the disclosure of a document may appeal such decision to the City Manager, in writing, within ten (10) days of the decision.

Within ten (10) days after receipt of an appeal, the City Manager shall review the decision of the department head, consult the City Attorney as appropriate, confirm or reverse the decision and notify the department head and thereafter the requester, in writing, of the determination made.

SECTION 8. POSTING OF THIS RESOLUTION

A copy of this resolution shall be posted in a conspicuous public place and made available upon request, free of charge.

SECTION 9.

Resolution No. 75-626, adopted December 30, 1975, is hereby repealed.

MAYOR

ATTEST:

CITY CLERK

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RESOLUTION No. 75-628

Adopted by The Sacramento City Council on date of

DEC. 30 1975

RESOLUTION ESTABLISHING A PROCEDURE FOR THE
DISCLOSURE OF PUBLIC RECORDS AND PROVIDING
A FEE SCHEDULE FOR COPIES OF PUBLIC RECORDS

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Intent

It is the intent of the City Council in adopting this Resolution to provide access to the public records of the City of Sacramento in accordance with provisions of the Public Records Act (Government Code Section 6250 et. seq.), and to establish a fee schedule for copies of such records.

Section 2. Examination of Records

(a) All public records, not exempt from disclosure under the Public Records Act, shall be available for inspection by any person during regular City office hours.

(b) The examination of the records of any department shall be carried out in such location and under such supervision as the head of the department may reasonably deem appropriate to safeguard the records and maintain the efficient conduct of business.

Section 3. Refusal to Disclose - Review

(a) When in the opinion of the head of any City department, or his authorized representative, any document should not be disclosed to a person requesting such disclosure, the department head shall state his reason for refusing disclosure to such person and shall notify such person of his right to appeal the determination of the department head as set forth herein.

(b) (i) If a person is dissatisfied with the determination of a department head regarding the disclosure of any public document, he may appeal such decision to the City Attorney by completing a form, provided by such department head, of the type set forth in Exhibit "A", which is attached hereto.

(ii) Upon completion of such form, it shall be transmitted immediately to the City Attorney, or his authorized representative, who shall review the decision of the department head, confirm or reverse such decision, and notify the interested parties of the determination made.

CERTIFIED AS TRUE COPY
of Resolution No. 75-628

AUG 30 1988

DATE CERTIFIED

ACTING Assistant City Attorney

DEC. 30 1975
RESOLUTION No. 75-628

(iii) The decision of the City Attorney shall be binding on such department head.

(c) If the person seeking disclosure of the record is dissatisfied with the decision of the City Attorney, he may bring an action in court to compel disclosure as provided by the Public Records Act.

Section 4. Costs for Copies of Records

(a) A charge shall be made for a copy of any public record made upon request, at the rates set forth in Exhibit "B" attached hereto. Rates for material not set forth in Exhibit "B" shall be established by the City Manager.

(b) A department head shall determine the cost of such copy and advise the person requesting such copy of the cost thereof in writing, upon a form approved by the Collector.

(c) The person requesting such copy shall present the form specifying the cost, together with the payment of such cost, to the Collector, or a person designated by him, who shall certify the amount paid on such form and return a duplicate thereof to such person.

(d) Upon presentation to a department head of the duplicate copy of the form, certified by the Collector or his designee, the department head shall provide to the person the copy requested.

Section 5. No Cost for Certain Material

Notwithstanding the provisions of Section 4, no charge shall be made to any person for a copy of material routinely prepared for submission to members of the City Council in connection with the agenda of meetings of the Council or Council committees, nor shall a charge be made to any person for a copy of material which is distributed in the interest of informing citizens about matters to be considered by the City Council or its committees.

Section 6.

Resolution No. 573, adopted December 7, 1972, is hereby repealed.

Section 7

This Resolution shall be effective January 1, 1976.

Phyllis L. Bentley
MAYOR

ATTEST:

John Pappas
CITY CLERK

DEC. 30 1975
RESOLUTION No. 75-626

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DISCLOSURE PUBLIC RECORD

(To be completed by person seeking disclosure)

Name _____

Mailing Address _____

Telephone: _____ Documents Requested _____

(Signed) _____

NOTE: A FEE WILL BE CHARGED FOR A COPY OF ANY DOCUMENT PROVIDED.
FEE SCHEDULE AVAILABLE ON REQUEST

(To be completed by department head or representative)

Check the reason(s) why disclosure of the documents requested was denied.

1. Material sought is in the form of preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the department in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.
2. Material sought are records pertaining to pending litigation to which the City is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.
3. Material sought are personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
4. Material sought is geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
5. Material sought are records of complaints, or investigations conducted, or intelligence information of security procedures compiled for correctional, law enforcement or licensing purposes.
6. Material sought are test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
7. Material sought are the contents of real estate appraisals, engineering or feasibility estimates and evaluations relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreements obtained.
8. Material sought is information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.
9. Material sought are library and museum materials made or acquired and presented solely for reference or exhibition purposes.
10. Material sought are records, the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
11. Material sought are statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for.
12. Other (specify) _____

(Signed) _____
(Title) _____

(To be completed by City Attorney or representative)

Decision by department to deny disclosure of document requested is

_____ Upheld _____ Reversed

- For _____
- A. Reasons given by department
 - B. Failure to demonstrate adequate reason for non-disclosure
 - C. Other (specify) _____

EXHIBIT "A"

(Signed) _____

DEC 30 1975
RESOLUTION No. 75-626

SCHEDULE OF FEES FOR COPIES OF PUBLIC RECORDS

<u>GENERAL DOCUMENTS</u>	<u>UNIT</u>	<u>FEE OR DEPOSIT BY UNIT</u>	
1. Xerox copy	Page	.10	
2. Print from Microfilm	1st print and each additional print	Special arrangement	
3. Extract of document and certification	Page	2.00	
4. Certifying Existing Documents	Document	1.00	
5. Set up for listening & monitoring of tapes (minimum fee \$1.00)	Hour	1.00	
6. Search time for inactive records (minimum fee \$1.25)	Hour	5.00	
7. Documents in stock and printed	1st sheet Each add'l sheet of same document	.25 .10	
8. Preparation of transcript from tape	Hour	5.00	
<u>SPECIAL DOCUMENTS</u>			
1. Municipal Code including City Charter	Code with Binder	50.00; \$25.00 per year upkeep service	
2. City Charter	Paper Back	3.00	
3. Standard Specifications	Set of Specifications	Free upon request (Engineering Dept.)	
4. Fingerprint Service		2.00	
5. Budget	Copy of Budget	3.00	
6. Special Reports prepared by Consultants	Report	Pro-rata cost of publication or reissue	
7. Computer Data-Use of Equipment & Personnel	Hour	\$100.00 + programmer time	
<u>POLICE PHOTOGRAPHS</u>			
	<u>Size</u>	<u>Color</u>	<u>Black & White</u>
1.	4 x 5	\$4.25 (first) 3.00 (ea. add'l)	\$3.00 2.00
2.	5 x 7	4.25 3.00	3.00 2.00
3.	8 x 10	6.50 4.00	4.00 3.00
4.	11 x 14	10.75 7.00	6.00 4.00
5.	16 x 20	18.00 14.00	

EXHIBIT "B"