

## ***Public Record Availability***

### **PURPOSE**

To outline the guidelines and procedures for responding to requests for documents held by the Permit and Resource Management Department (“P.R.M.D.”).

### **GENERAL**

The Public Records Act (P.R.A.) provides that public records are open to inspection at all times during P.R.M.D.’s regular office hours (Government Code Section 6253(a)).

### **AUTHORITY**

1. Government Code Section 6252, 6253, 6254, 6255
2. Water Code Section 13752
3. Public Resources Code Section 3752
4. Health and Safety Code Section 19851
5. U.S. Code, Title 17, Chapter 1, Section 107

### **FORMS**

1. Public Records Access Guidelines (GEN-003)
2. P.R.A. Response Letter (S:\OFC\FORMS\ADMIN\PRA Response Letter.wpd)
3. Records Request form (available from Records staff)
4. Affidavit - Request for Duplication of Copyright Protected Documents (Official Building Plans) (CSS-022)
5. Request for Permission to Copy Plans (CSS-022)
6. Affidavit for Duplication of Copyright Protected Documents (Non-Building Plans) (CSS-021)

### **PROCEDURE**

There are four ways that the public can request PRMD records:

1. Records Available at Records Counter: Records staff shall make a reasonable attempt to assist the requesting party in identifying records responsive to their request, or the purpose of their request (Government Code Section 6253.1(a)(1)). Requests are handled on a first-come, first-served basis. The *Records Request* form shall be completed to process each request. Staff shall then search for the requested records in the file room, on microfilm, in the digital imaging system, and on the list of materials stored off-site.

A. Record Search. If the requested information cannot be found in the above locations,

Records staff shall consult with other staff to attempt to locate the records. If the records still cannot be found, staff shall advise the requesting party of this fact and offer to provide the records as soon as possible. Once staff locates the records, they then call the requesting party with that information. Alternatively, staff shall advise the party if any requested records are not within P.R.M.D.'s jurisdiction or responsibility and shall provide suggestions for overcoming any other practical basis for denying access to the records (Government Code Section 6253.1(a)(3)).

- B. Record Review. Records staff shall review the compiled records and remove and withhold the following documents:
- i. Communications between County Counsel and any P.R.M.D. employee, including memoranda and printouts of e-mail correspondence (Government Code Section 6254(k)). These communications should be maintained in each division's internal files and not become part of the public file.
  - ii. Preliminary drafts, notes, or memoranda that the P.R.M.D. does not normally retain in the ordinary course of business (Government Code Section 6252(e), 6254(a)).
  - iii. Water well logs, well completion reports, and similar documents. (Government Code Section 6254(k); Water Code Section 13752) These documents are typically marked "confidential."
  - iv. Geothermal well records if the owner or operator has requested in writing that the P.R.M.D. maintain the records as confidential (Governmental Code Section 6254(k); Pub. Res. Code Section 3752).
  - v. Geological and geophysical records and other proprietary data that P.R.M.D. obtained in confidence (Government Code Section 6254(e)).
  - vi. Archaeological records relating to archaeological site information maintained by the Department of Parks and Recreation, the State Historical Resources Commission, or the State Lands Commission (Government Code Section 6254.10).
  - vii. Personnel files.
  - viii. Confidential Violation Complainant Forms as defined by P.R.M.D. Policy #7-0-7.

In addition, the official copy of building plans maintained by the department may be inspected, but shall not be copied without the written permission of the licensed or registered professional who signed the document (Health & Safety Code Section 19851(a)) and the original or current property owner. If an individual requests a copy of such documents, staff shall advise them to either contact the architect/engineer directly or complete an *Affidavit - Request for Duplication of Copyright Protected Documents (Official Building Plans)* (CSS-022). If the latter, Records staff will process a *Request for Permission to Copy Plans* form.

Non-Building plans such as grading permits and soils reports that are stamped and signed by a licensed or registered professional may be inspected. If an individual requests a copy of such documents, the requesting party must sign a completed *Affidavit for Duplication of Copyright Protected Documents (Non-Building Plans)*(CSS-021) and check that he or she are requesting copies pursuant to the "fair use" exception or has the author's permission (U.S. Code: Title 17, Section 107).

In either case, non-response by the current or original owner or by the registered professional within 30 days will be considered approval. Staff should contact County Counsel with any questions regarding the above categories or any other documents that may be confidential or proprietary.

NOTE: Documents or materials submitted by the public to P.R.M.D. regarding a project are not considered confidential regardless if they are marked as such. Only materials as defined in the above Government Code Sections are considered confidential. If a staff member receives a document marked “confidential” that does not meet the requirements of the above Government Code Sections, they are to inform the person submitting the material that it must be considered public record or discarded.

- C. **Inspection and Reproduction:** Records staff shall inform the requesting party that no files or documents may be removed from the file review area or marked in any manner and that official copies of plans may not be copied as discussed above. The requesting party may make paper and microfiche copies of all allowed materials at the copy/microfiche printers available in the file counter area. Oversize maps/drawings and large amounts of documents require a special order or an outside bonded copy service (usually available in 4-5 days).
  - D. **Cost and Method of Payment:** For per page fee and Assessor’s Map fees, see current fee schedule (P.R.M.D. is entitled to “fees covering direct costs of duplication” (Government Code Section 6253(b)). Small payments are made to the records staff and receipts are available upon request. Larger payments and payments for reproduction of maps/drawings are made through the cashier. Payments for documents copied through an outside bonded copy service are payable to that service.
- 2. **Records Available Through Staff:** If a member of the public directly contacts a staff member who is working or has worked on a project to request records, that staff member may direct the requesting party to the records counter for assistance if necessary. However, because of timing and ease of file manipulation, the staff member can bypass the records staff and prepare copies/make the file available to the requesting party. The procedures with respect to confidential and proprietary documents, inspection, reproduction, and cost and method of payment are the same as above and can be coordinated through the records staff.
  - 3. **Subpoenas:** See Subpoena Policy #1-0-3.
  - 4. **Information Requested Specifically Through the California Public Records Act:** The California Public Records Act allows the public to inspect and request copies of public records prepared or retained by any public agency. The department’s records counter process provides a faster and more efficient compliance mechanism than the Act itself requires (Government Code Section 6253(e)). However, members of the public may specifically invoke the Act to obtain electronic copies of records, to obtain documents not available at the File Counter, or for other reasons in connection with a request for copies of

records. If this occurs, records staff shall direct the requesting party to make a formal request in writing with as much information as possible. P.R.M.D. shall then have 10 days to respond to the request (Government Code Section 6253(e)).

If a formal Public Records Act request is made, it shall be given immediately to the P.R.M.D. Executive Secretary, who shall copy the request to the applicable division manager(s), the records supervisor, and County Counsel. The applicable division manager(s) shall be responsible for coordinating with records staff for the location of records, copying, and payment.

The department has ten (10) days to respond to the request, although it should endeavor to supply the requested information as soon as possible. The response must indicate that the request has been received and/or 1) the records are available, 2) the records are being located with a date and time when they will be available, or 3) an extension is necessary. If necessary, P.R.M.D. can extend the 10-day time period by 14 additional days by providing a written notice explaining that unusual circumstances (such as the “voluminous amount” of records requested) necessitate an extension (Government Code Section 6253(c)). Staff shall gather the records and arrange for their copying within that specified time frame. If the department withholds any records, it shall issue a written determination justifying the withholding (Government Code Section 6255). A format letter for these responses is located at S:OfcForms/Admin/PRA Response Letter.wpd.

Reproduction procedure, cost and method of payment are the same as above. In addition, the Public Records Act requires the department to make information available in an electronic format when so requested and when the information is held by P.R.M.D. in an electronic format (Government Code Section 6253.9(a)(1)). The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format (Government Code Section 6253.9(a)(2)).

**Approved by:**

/s/ Pete Parkinson

Pete Parkinson, Director

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