

LAW OFFICE OF LISA HERZOG

IRVINE, CALIFORNIA 92604-0317

2015 OCT 15 PM 3:04

October 12, 2015
OFFICE OF CITY CLERK
CITY OF ANAHEIM

Sent Via U.S. Mail

City of Anaheim
Office of the City Clerk
200 S. Anaheim Boulevard
2nd Floor, Room 217
Anaheim, CA 92805
(714) 765-5166

RE: Public Records Request for Documents

Dear City Clerk:

Pursuant to the State of California Public Records Act ("CPRA"), California Government Code §§ 6250-6276.48, I hereby request the following records be produced by the City of Anaheim ("You") to the Law Office of Lisa D. Herzog ("Herzog") within the timeframes provided by statute:

- 1. Copies of all invoices (including date of invoice) from private professional services contractors for the following disciplines only: land surveyors, engineers, architects, underground utility contractors, geotechnical contractors, inspectors and private paving contractors received by You for the time frame of January 1, 2014 to the present.**
- 2. Copies of all corresponding checks for all invoices, as requested in No. 1 above, paid by You including the date the invoice was paid. Redacting the checking account information on these check copies is acceptable. If, and only if, no check copies are kept, please provide proof of payment including date paid.**

To reduce usage of paper and your staff's time, we can accept a spreadsheet of transactions. An example is provided below. We can then take this spreadsheet and narrow down the number of invoices and checks requested that will require to be produced by you. On average we have been able to reduce this request to around 20% of the original size. However, if a spreadsheet (like the example) shown below is not available, we require that you comply with the public records request as detailed above. It is important that we receive dates for both the invoices and the corresponding checks.

We are unable to identify vendors by name or project name until we first obtain this information.

Invoice #	Invoice Date	Check Date	Description	Inv Amount	Vendor #	Vendor Name
64533	7/29/2014	8/15/2014	EQUIPMENT REPAIR	\$37.20	018960	3M CLEAN WATER SOLUTIONS
64313	6/19/2014	7/19/2014	SYSTEM MAINTENANCE	\$182.08	018960	3M CLEAN WATER SOLUTIONS
E14-0281	12/18/2014	1/10/2014	50% REPAIR REIMB - SIDEWALK	\$157.50	024667	675 CAM DE LOS MARES PARTN L
115023	2/20/2015	3/8/2015	4065 CALLE ISABELLA ASPHALT P	\$2,100.00	020648	A & Y COMPANY INC

Please note:

An exempt part of any document does not justify withholding the whole document. California Government Code § 6253(a) (stating that any non-exempt (public) part of a record must be made available after any exempt information has been redacted).

Additionally, pursuant to California Government Code § 6253(b):

“Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable.”
 [emphasis added]

The California Public Records Act provisions allowing an agency to charge a fee covering “direct cost of duplication” only allows the agency to recover costs of copying documents. *North County Parents Organization for Children with Special Needs v. Department of Education* (1994) 23 Cal. App. 4th 144, 146. “Direct costs” do not include additional tasks necessarily associated with the retrieval, inspection and handling of the file from which the copy is extracted. *Id.* See also 55 Cal. Jur. 3d, Records and Recording Laws § 12 (2015) stating:

“The amount chargeable by the department for furnishing the copies is the cost of copying them, and any “indirect” costs charged by the department are excluded.”

Additionally, even if your City has a resolution regarding general copy charges, only direct costs of duplication are allowed in the case of a public records request (as opposed to other copying charges) pursuant to California Government Code § 6253(b).

“The preemption doctrine prohibits a city or county from making ordinances and regulations in conflict with general state laws.”

45 Cal. Jur. 3d Municipalities § 244 (citing *Harrahill v. City of Monrovia* (2002) 104 Cal. App. 4th 761). See also California Const. Art. 11, § 7. These charges are typically \$.10 per copy.

Responsive documents will be due ten (10) days from receipt of this request pursuant to California Government Code § 6253. If, for any reason, you choose to deny this request, please state the reason for the denial within five (5) business days and provide me the name of the person with whom I may file an appeal.

If you have any questions about these requests or your responsibility to respond, we urge you to speak with your legal counsel for clarification. Additionally, please feel free to email me at lisadherzog@yahoo.com regarding the process and the required timeframes for production.

To reduce the usage of paper, we prefer that you provide the documents in electronic full size formats, preferably PDF files wherever possible. If possible, please email the files to

Sincerely,

LAW OFFICE OF LISA D. HERZOG

Lisa D. Herzog

Lawyer

LDH:dw