



CITY OF
South San Francisco
CALIFORNIA

CITYWIDE RECORDS MANAGEMENT PROGRAM POLICY

Adopted by City Council on
(Date)
Resolution No. (Number)

1. PURPOSE

This Records Management Program (RMP) Policy (“Policy”) establishes comprehensive and uniform methods for the cost effective and efficient management of the City’s public records (including creation, utilization, maintenance, security, retention, storage, preservation, and destruction), in accordance with legal requirements and professional standards.

2. SCOPE

This Policy is established by the City in accordance with all relevant federal, state, and local laws, and contractual requirements. This Policy is established in accordance with the State Record Retention laws (Government Code §34090, *et seq.*) as well as the California Public Records Act (Government Code §7920 *et seq.*). Additionally, where relevant to the needs of the City’s management of records, the City has incorporated provisions from professional standards and guidelines. All physical hardcopy or electronic documents, sound, or video works created by employees while executing the City’s business are records under this policy regardless of whether they are managed in a formal process by the employee’s department or kept by an employee or their work unit for reference or any other purpose.

3. AUTHORITIES

The legal authorities and professional guidelines applicable to the management of City records include, but are not limited to, the following:

- 3.1. Federal and State Law** Numerous Federal and State laws related to minimum record retention requirements and statutes of limitations apply to different types of records. Each record series listed in the Records Retention Schedules will have applicable laws cited.
- 3.2. Government Code §34090 *et seq.*** The principal provisions of California law applicable to City Record Retention requirements are addressed in Government Code §34090, *et seq.*, which generally require original public records to be retained for a minimum of two years and sets forth other requirements for the retention and destruction of specific public records. This Policy establishes the procedures consistent with the provisions within the state law for the destruction of original public records which have been retained for at least the minimum retention period and are no longer required by the City for business or historical purposes. The Policy also addresses the destruction of records which has been replaced by “Trusted Copies” (GC §34090.5) and the destruction of “Duplicate Copies” (GC §34090.7).

Per subsections of the code, the state law provisions do not authorize the destruction of:

- a. *Records affecting title to real property or liens thereon.*
- b. *Court records*
- c. *Records required to be kept by statute.*
- d. *Records less than two years old.*
- e. *The minutes, ordinances, or resolutions of the legislative body or of a city board, agency or commission.*

- 3.3. CA Government Code §6200 *et seq.*** Except as otherwise provided by Government Code §34090 *et seq.*, Government Code §6200 *et seq.* provides that any City employee who is found guilty of willfully destroying (including altering, falsifying, mutilating, defacing, or stealing, in whole or in part) a public record may be punished by imprisonment of up to four years.

- 3.4. CA Government Code §7920 *et seq.*** The California Public Records Act (Government Code §7920 *et seq.*) provides definitions for “writings” and “public records” for the purpose

of determining which public documents are required to be disclosed to the public upon request, and which public documents are confidential or otherwise exempt from disclosure.

- 3.5. Professional Standards and State of California Secretary of State Local Government Records Management Guidelines** Selected professional associations and other governmental agencies, such as the California Secretary of State, the Department of Justice, and the California Municipal Clerks Association, have published standards, model retention guidelines, and/or articles recommending retention periods for different types of records. Although these standards and guidelines are not binding upon the City, the City may take these documents into consideration in establishing the City's Records Retention Schedule and, where applicable, the City will identify deviations from these suggested guidelines within the Records Retention Schedule.
- 3.6. CA Code of Regulations §22620 et seq.** The State of California provides requirements and guidelines for Trustworthy Electronic Document or Record Preservation. This includes requirements for electronic document format, such as PDF/A, system backups, file compression, security, and policies and procedures for retaining official documents or records created or acquired using a trusted system.
- 3.7. CA Government Code §12168.7** In addition to the State's Trustworthy Electronic Document or Record Preservation requirements, the State sets standards for "trusted systems" to acquire electronic documents when the City collaborates with State agencies. These standards define what a trusted system is and how records must be preserved using trusted systems, including cloud computing services for records storage.

4. RESPONSIBILITIES

Active management of the City's records is required to ensure that the records are properly maintained. This section identifies elected officials and staff members responsible for managing the City's records.

4.1 City Council

The City Council reviews and approves the Citywide Records Management Program, the Records Retention Schedule, and any substantive amendments to the Policy or Records Retention Schedule.

4.2 City Clerk

The City Clerk (or designee) shall be responsible for the following:

- a. Implementing and coordinating the City's Records Management (RMP) program.
- b. Providing review and approval of any proposed amendments to this Policy or the Records Retention Schedule annually by Resolution of the City Council.
- c. Disseminating information and providing RMP program training to departments.
- d. Establishing and maintaining a program to assist departments in the destruction of records once their respective retention periods have expired.
- e. Assisting all departments in complying with this Policy.
- f. Notifying the affected Office of Record (OOR) and the City Clerk when the City must suspend the destruction of records due to pending or potential litigation, discovery requests, or for any other reason.
- g. Providing written notification to the City Manager and Department Director of violations of the Records Retention Schedule and this Policy.
- h. Performing periodic training and audits to assist departments in complying with the Records Retention Schedule and this Policy.
- i. Providing written notification to the Department Director of audit discrepancies within departments.
- j. Providing review of changes in records management practices relating to this Policy and the Records Retention Schedule.
- k. Receiving City Attorney approved requests for records destruction for final review and processing.
- l. Maintaining the Official Record of all documents related to the City's RMP program, and any amendments or updates thereto, including the following:
 - Policy
 - Records Retention Schedules
 - Lists of Records Coordinators and alternates
 - Master Index of Record Series, as submitted by each department
 - Requests for Destruction of Records
 - Authorizations to Destroy Records
 - Certifications of Destroyed Records

4.3 City Attorney

The City Attorney (or designee) shall be responsible for the following:

- a. Providing legal review and approval of any proposed substantive amendments to this Policy or the Records Retention Schedule.
- b. Providing legal review of changes in the law relating to this Policy and the Records Retention Schedule.
- c. Reviewing all requests for records destruction and exercising discretion to approve or deny requests for destruction in accordance with this Policy.
- d. Forwarding all approved requests for destruction to the City Clerk.

4.4 Department Directors

Department Directors are responsible for the following:

- a. Administering the City's Records Management Program in their respective departments and overseeing that Policy parameters are implemented in a timely manner.
- b. Appointing a Department Records Coordinator and an alternate to work with the City Clerk's Office to implement this Policy. Departments with several divisions may appoint multiple Department Records Coordinators and alternates.
- c. Establishing and maintaining an inventory of departmental records and providing an updated electronic copy to the City Clerk, when requested. The inventory shall identify the following aspects of each record:
 - Associated records series
 - Activity status (e.g., active, inactive)
 - Media format of the Official Record
 - Importance (e.g., vital, historical, confidential), where applicable
- d. Coordinating with the City Clerk's Office in the development of a departmental Records Retention Schedule.
- e. Periodically reviewing its departmental Records Retention Schedule to ensure that the schedule is complete, current, and accurate.
- f. Providing the City Clerk's Office with written proposed amendments to the Records Retention Schedule, when needed and/or requested.
- g. Reviewing proposed amendments to the Records Retention Schedule, as prepared by the City Clerk's Office.
- h. Ensuring the security of records that have been identified as confidential.
- i. Notifying the City Clerk's Office of any information received regarding legal issues related to the retention of records within their department.
- j. Reviewing and approving requests for the destruction of departmental records as authorized by this Policy and the Records Retention Schedule and forwarding such requests to the City Attorney and City Clerk.
- k. Approving the destruction of Duplicate Copies, Transitory Records, and Non-Records in accordance with this Policy.
- l. Providing written notification to the City Clerk if there are any discrepancies or violations of this Policy or the Records Retention Schedule within their department.

4.5 Department Records Coordinators

The Department Records Coordinator(s) for each department, under the direction of the Department Director, are responsible for:

- a. Creating an index of department records series, and working with the City Clerk, or designee, to develop a Records Retention Schedule.
- b. Informing and updating employees in the department about this Policy and the department's Records Retention Schedule.
- c. Ensuring that active records within the department are maintained according to methods described in this Policy and the department's Records Retention Schedule.
- d. Maintaining the security of records that have been identified as confidential.
- e. Maintaining a master inventory of all department records kept internally and at off-site storage facilities.
- f. Monitoring all records that are sent off-site for storage to ensure the records are properly packaged and labeled, accurately and completely inventoried, and assigned proposed disposition dates.
- g. Coordinating all requests to retrieve documents from off-site storage and ensuring that documents are returned to off-site storage in a timely manner.

- h. Annually reviewing records and preparing a list of records eligible for destruction when the retention period has expired, as described in this Policy and the Records Retention Schedule.
- i. Securing the Department Director's approval of the destruction of records when the retention periods have expired.
- j. Ensure the destruction of Duplicate Copies, Transitory Records, and Non-Records in accordance with this Policy.
- k. Providing written notification to their Department Director and City Clerk of any discrepancies or violations of this Policy or the Records Retention Schedule within their department.

4.6 All City Staff

Any City staff member who routinely works with the City's records, as required by their assignment, is responsible for:

- a. Reviewing this Policy and their department's Records Retention Schedule.
- b. Maintaining the security of records that have been identified as confidential.
- c. Surrendering all City records to their supervisors, their Department Director, the City Clerk, City Manager, or City Attorney, when requested.
- d. Providing written notification to their Records Coordinator(s) and Department Director of any non-compliance with this Policy or the Records Retention Schedule.

5. TYPES OF RECORDS

According to California state law a record “includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics” (Govt. Code section 7920.545).

What is a non-record?

It is often difficult to draw a clear distinction between record and non-record material. A helpful hint to follow in making the distinction is that non-record documents can be discarded as soon as they are read. Some examples are listed below:

- Letters of Transmittal and acknowledgements of receipt which do not add any information to the material transmitted.
- Requests for printing services, after the request has been filled to the customer’s satisfaction.
- Informal notes, worksheets, and rough drafts of letters, memoranda, or reports that do not represent the basic steps involved in the preparation of communications.
- Notes, including stenographic notebooks and stenotype tapes, and dictating media which have been transcribed.
- Miscellaneous notices of community affairs, employee meetings, holidays.
- Stocks of publications or blank forms that are kept for supply purposes only.
- Follow-up or copies of suspense tracers pertaining to correspondence with pending action.
- Library and reference material.

5.1 Access Controls

All documents, writings, or other forms of information prepared, owned, used, produced, acquired, or retained by employees in the course of their responsibilities, regardless of physical form or characteristics, are the exclusive property of the City. Employees shall have no expectation of privacy relating to City records.

When it is necessary for employees to work on electronic documents away from the City, those documents must be accessed via the City’s virtual private network (VPN), and no copies shall be stored on private computer equipment or other electronic media. All documents must be returned to the City, and all copies deleted from the outside location, within 36 hours of final use or reference. Employees shall not have any City physical records in such places as private homes or offices.

Records managed by outgoing officials, employees, contractors, or volunteers shall be delivered to their successors prior to separation from the City.

5.2 Vital Records

Vital Records are those records needed to continue business operations in the event of a disaster and will be identified as such on the Records Retention Schedules. Each department will be responsible for the protection and maintenance of vital records. Examples of protection include, but are not limited to:

- Storing hard copies in a fire-resistant filing cabinet or area, or in a locked vault, either on site or off site.
- Storing duplicate hard copies at a secure offsite facility for the duration of the retention life of the vital record.
- Providing regular back-ups for electronic vital records.
- Hosting electronic vital records on a cloud-based service, provided that the documents are periodically backed up by the service provider.

- Maintaining:
 - A list of physical locations of vital records storage facilities and systems.
 - Access codes, passwords and/or keys for facilities and systems.
 - Equipment used to store vital records or needed to access electronically stored vital records.
 - An inventory of vital records within the facility.
 - Procedures for accessing vital records.

5.3 Historical Records

Historical Records are records that are valuable to future researchers to document the accomplishments, changes, and growth of the City. Record Series that may contain historical records will be identified within the Records Retention Schedules. Historical Records may be maintained within each department based on individual departmental procedures or forwarded to the City Clerk's Office for archival storage.

5.4 Confidential Records

There are many sources of legal authority to exempt a record from disclosure including, but not limited to, the California Public Records Act, Government Code §7920 through §7930. It would be impractical to list all definitions of "confidential" records in this Policy. If there is any question as to whether a particular record should be designated as "confidential," the Department Director will consult the City Attorney and City Clerk.

Confidential records must be maintained with sufficient security, and in accordance with applicable laws, to protect their contents from unauthorized access. Departmental procedures to ensure the security of confidential records will be the responsibility of the Department Director.

5.5 E-mail Communications

E-mail messages and any electronic attachments should be reviewed regularly to determine relevance to current City business. When relevant, the e-mail must be converted to an electronic record, or printed in hard copy, and retained with the associated topic or record series (e.g., project file, purchase order, professional services agreement) for the required retention period as designated in the Records Retention Schedules.

Routine e-mail messages are comparable to telephonic communications and are considered either Transitory Records or Non-records. Such e-mail is not intended to be retained in the ordinary course of City business, and the informational content of such communications is neither necessary nor intended to be preserved for future City use or reference.

E-mail systems are not intended to be, and will not be, used for the electronic storage or maintenance of official records, or as document management systems. E-mail communications are retained as follows:

- E-mail will automatically be removed and deleted permanently from the user's Inbox after 2 years, per Administrative Instruction – Section II – No. 8.

5.6 Databases

For Records Retention purposes, the City considers all databases, whether residing on City systems or hosted by an outside source (Software as a Service or SAS), to be Transitory Records. The blanket retention period for databases is "While Active" to reflect that only the current version has informational value to the City.

The Office of Record that uses, maintains and modifies a database must ensure the information contained within the database is correct and accurate, and has the obligation to produce information from the database, as needed, to perform City business. Due to the transitory nature of databases, periodic reports produced from a database, and used

for administrative, fiscal, legal or historical purposes, may become Official Records. Reports designated as Official Records must be maintained in accordance with the Records Retention Schedules.

For example, the City's Annual Budget Report captures the financial position at the end of a fiscal year, and is used to inform the City Council, staff and citizens of the City's financial state. Thus, the report must be retained for the retention period designated in the Records Retention Schedule to reflect operational needs.

5.7 Trusted Copy (Migration of an Original Record)

To ensure the accuracy of a Trusted Copy, employees of the Office of Record must follow the department's approved process before replacing the original record. The process must be reviewed by the City Clerk and approved by the City Attorney.

Before designating a record as a Trusted Copy, legibility must be validated, and indexes or metadata confirmed as accurately reflecting the content of the original record.

Once the Trusted Copy has been validated and designated as the Official Record, the original record shall be immediately destroyed in the approved manner stated in this policy, unless maintenance and retention of the physical records is required by statute, such as governing body Minutes, Resolutions and Ordinances.

6. STORAGE AND PRESERVATION OF RECORDS

6.1. Active Records

Storage and preservation methods for active records must be approved by the City Clerk or designee and meet all the following minimum specifications:

- a. Records must be stored and maintained using complete inventories and accurate indexes which allow them to be identified, retrieved and disposed of in an expeditious manner.
- b. Records must be maintained so they are readily accessible to conduct current City business.
- c. Storage systems for records will accommodate hard-copy or electronic records and must also conform to the requirements of a Trusted System. Migration of original records to electronic form requires a process that complies with Section 5.7 of this policy.
- d. Filing systems should follow these guidelines:
 - d.1 Physical file folder labels should have a consistent style, not a mixture of different styles. This makes reading labels on physical files easier and increases access rates. File labeling should be consistent for the entire group of records.
 - d.2 A single filing system for primary and secondary indexing levels should be chosen and remain consistent. For example, after establishing primary file sections, select an alphabetical, alpha-numeric, or subject classification to control the sub-group files.
 - d.3 Record series should be kept together so that permanent records are separate from records with shorter retention requirements. When preparing files for a new calendar or fiscal year, set up files by retention period and add files to the department inventory list including destruction dates.
 - d.4 Confidential files should be labeled with obvious notations to alert staff members to the special handling requirements.
 - d.5 Inactive records should be transferred to the City's Record Division or storage provider to ensure the maximum capacity is available for housing active records. The transfer must be reviewed and approved by the City Clerk.

6.2 Inactive Records

Inactive records may be stored in a secured City facility as approved by the City Clerk or designee.

An off-site storage facility must:

1. Meet applicable state and local codes.
2. Provide protection from fire and intrusion.
3. Provide reasonable access to records in a timely manner.

Each department shall maintain an inventory of its inactive records in storage and forward an electronic copy of said inventory to the City Clerk's Office. Prior to sending records to storage, Duplicate Copies, Transitory Records, and Non-Records must be removed and destroyed in accordance with this Policy.

6.3 Cloud or Hosted Electronic Records

Cloud stored or hosted electronic records must follow the City's Records Retention Schedules.

The cloud or hosting company must:

1. Meet applicable state and local codes.
2. Provide protection from fire and intrusion.
3. Provide reasonable access to records in a timely manner.

6.4 Offsite Storage

The City will make every effort to avoid storing records in offsite storage facilities. Whenever possible, records will be held in the department responsible for the document.

7. DESTRUCTION OF RECORDS

7.1 Destruction of Physical or Electronic Records

The City Clerk's Office oversees and administers the Program, Records Retention Schedules, and the destruction of records. This applies to all records, regardless of format.

Departments must identify all records eligible for destruction pursuant to the Records Retention Schedule and submit a Records Destruction Request Form (available on the City's X Drive) to the City Clerk's Office. The form shall list all documents to be shredded, deleted, or otherwise destroyed and the corresponding retention periods pursuant to the Records Retention Schedule. The Department Director or designee must approve and sign the Records Destruction Request Form and submit it to the City Clerk's Office. The form must be completed in its entirety.

The City Attorney and the City Manager are responsible for reviewing and approving or denying all requests and forwarding their recommendation to the City Clerk's Office.

The City Clerk's Office is responsible for reviewing and certifying the destruction of records. The Department is responsible for obtaining a Certificate of Destruction and forwarding a copy to the City Clerk's Office along with the destruction form.

7.2 Destruction of Duplicate Copies

No Duplicate Copy will be maintained longer than the retention period of the original record and may be destroyed at any time within the retention period.

Department Directors will ensure that employees follow the established procedures for destruction of this Policy. Prior to the destruction of a Duplicate Copy, the employee shall ensure that:

- a. The writing is, in fact, a Duplicate Copy and not an original record.
- b. The writing is no longer required for the operational needs of the department.

7.3 Destruction of Transitory Records

A Transitory Record may be destroyed at any time. Prior to the destruction of a Transitory Record, the employee shall ensure that:

- a. The writing is, in fact, a **Transitory Record** and not an original record.
- b. The writing is no longer required for the operational needs of the department.

7.4 Destruction of Non-Records

A non-record may be destroyed at any time. Prior to the destruction of a non-record, the employee shall ensure that:

- a. The writing is, in fact, a non-record.
- b. The writing is no longer required for the operational or reference needs of the department.

7.5 Destruction of Original Records After Migration to a Trusted Copy

Once an original record has been migrated to a Trusted Copy, in accordance with this Policy, the original record shall be immediately destroyed in accordance with this Policy, unless maintenance and retention of the physical record is required by statute, such as governing body Minutes, Resolutions and Ordinances. Request for the destruction of an original record after migration to a trusted copy shall follow the procedures outlined in Section 7.1 Destruction of Physical or Electronic Records.

7.6 Destruction of Information on Obsolete Electronic Equipment

Certain electronic equipment, including Trusted Systems, used by the City may contain methods of electronic storage of City information. This information may be captured and stored as the equipment is used in the normal course of business.

Prior to decommissioning City equipment, the responsible department shall ensure that all information relating to City business will be deleted or otherwise made illegible from any data storage systems on or within the equipment. Under no circumstances shall any electronic equipment be released from City property for recycling, destruction or other disposition until the City information has been deleted. Written confirmation of the destruction of the information should be provided to the City Clerk.

7.7 Destruction of Non-paper Media Records

Official Records stored on non-paper media must be destroyed in a manner consistent with this Policy. Documentation for the destruction of these records shall be prepared and retained in accordance with Section 7 of this Policy.

After all Official Records stored on non-paper media (e.g., magnetic tape, disks, diskettes, or other magnetic medium) have been destroyed, the medium itself may be reused, recycled or destroyed.

8. PROCEDURES

The Procedures for the management, storage and preservation, and destruction of records are as follows:

8.1 Access to Electronic Records Systems

A Department Director (or designee) shall approve access to electronic records systems for any employees, contract employees, consultants, or volunteers, as needed to fulfill the requirements of their employment.

Any electronic records system is subject to audit by the City Clerk's Office on a periodic basis. An audit may include operations performed on the database, the date and time an operation occurred and by whom, the database record number, the database index and/or metadata associated with the record, or any other pertinent data where practical.

8.2 Process for Scanning and Imaging of City Records and Documents

Laserfiche is the City's document management system for archiving electronic Trusted Copies and for electronic copies of documents for which there is no legal authorization for destruction (e.g., records affecting title to real property or liens thereon; minutes, ordinances, or resolutions of the legislative body or of a city board, agency, or commission). These documents must be stored within Laserfiche, indexed as required by this Policy, and searchable utilizing Optical Character Recognition (OCR).

Procedures for scanning a hard-copy document for storage in Laserfiche as an Official Record shall be established and reviewed periodically by the City Clerk's Office. Priority shall be given to those records that must be retained on a permanent basis, and to those records which need to be frequently retrieved.

Examples of records eligible for scanning include, but are not limited to, the following:

- Ordinances & Resolutions
- Minutes
- Plans and Permits
- Contracts and Agreements
- Approved Construction Plans

Departments shall review and purge unnecessary documents from their records prior to scanning. Purging involves evaluating documents within a record, and discarding documents determined to be Transitory Records, Duplicate Copies or Non-Records.

After images are created, the department shall verify the images are legible and complete. Images should be verified, indexed, and the OCR process completed as soon as possible after scanning occurs.

Non-scanned images must be imported into Laserfiche, indexed and the OCR process completed, thereby meeting all the same requirements as described above for scanned images.

When creating an electronic Trusted Copy, the department must determine that the original record has been successfully transferred into electronic format as defined above. The original record will then be destroyed in accordance with this Policy.

All procedures will be evaluated by the City Clerk and updated, as needed.

8.3 Destruction of Official Records

Official Records, for which the retention period identified on the Records Retention Schedule has elapsed, will be destroyed in accordance with this Policy. Unless placed on legal hold by the City Clerk or City Attorney, records designated for destruction must be destroyed within the calendar year after the record expires.

A record that expires during the current calendar year must be destroyed by December 31st of the following calendar year. For example:

<u>If expiration occurs on:</u>	<u>Then destroy no earlier than:</u>	<u>or no later than:</u>
January 1, 2024	January 1, 2025	December 31, 2025
December 31, 2024	January 1, 2025	December 31, 2025

Periodic reviews of records shall be performed by the Department Record Coordinator(s). Additionally, to ensure compliance with this Policy and the Records Retention Schedule, the City Clerk may annually designate a date for departments to review their records and prepare requests for destruction.

Records for which the retention period has elapsed must be identified and included on a Records Destruction Request Form, which is signed by the Department Director, then forwarded to the City Attorney and City Manager for review and approval. Upon approval, the City Clerk will review the form for approval, completeness, and processing.

Hard Copy Records

Hard-copy records approved for destruction must be destroyed by the Department Records Coordinator(s) (or designee) using one of the following methods:

- **Shredding & Recycling Bin:** Expired records that are not confidential.
- **Shredding:** All other records approved for destruction.

NOTE: Confidential records must be shredded by the Department Record Coordinator(s) (or designee). Commercial Services may be used for the destruction of paper documents, if destruction is completed on-site at City facilities. A Certificate of Destruction from the commercial services must be submitted to the City Clerk’s Office and will be maintained with the approved Records Destruction Request Form.

Electronic Records

Destruction of Official Records in electronic format must follow the same approval process as outlined above for the destruction of hard-copy records. Upon approval, electronic records must be destroyed by the Department Records Coordinator(s) (or designee) using methods that permanently delete the records.

The destruction process must include all Duplicate Copies of the Official Record, regardless of which department maintains the duplicates.

Following the destruction of records, the City Clerk (or designee) shall certify that the records have been destroyed. All Certificates of Destruction shall be maintained in the City Clerk’s Office.

9. DEFINITIONS

Active Records: Records referenced and readily accessible in the general conduct of current City business.

Citation(s): “Citations” listed in the Records Retention Schedule are the legal bases for a minimum retention period, as required by federal, state, regional and/or local governmental agencies.

Confidential Record: There are many sources of legal authority that define a “Confidential Record” including, but not limited to, the *California Public Records Act*, Government Code §7920 through §7930.215. Therefore, it would be impractical to list all definitions of a “Confidential Record” within this Policy. If there is any question as to whether a record is a Confidential Record, staff should consult with the City Clerk and/or City Attorney prior to disclosure.

In general, a “Confidential Record” is any record not disclosed to the public unless directed by court order. Examples of a “Confidential Record” may include, but are not limited to, the following:

- a. Personnel Records:
Examples include any personnel, medical or similar files, the disclosure of which would cause an unwarranted invasion of personal privacy.
- b. Pending Litigation or Claims:
In general, Government Code §6254 provides that when litigation or a claim is filed against the City, the records pertaining to the litigation or claim are exempt from public disclosure until the litigation or claim has been adjudicated or settled.
- c. Attorney/Client Privilege and Attorney Work Product:
It should be presumed that all communications from the City Attorney’s Office on behalf of the City are subject to attorney/client privilege, and the communications should be protected accordingly.
- d. Police Records and Investigative Reports:
Examples include, but are not limited to, a wide variety of records such as:
 - Police investigations, intelligence, analysis, and conclusions
 - Information that may endanger the safety of any person
 - Juvenile records
 - Active case files
- e. Feasibility Studies for Property Acquisition or Public Contracts:
Unless required to be disclosed by eminent domain law, feasibility studies relative to the acquisition of property, or to prospective public supply and construction contracts, are not disclosed until all the property has been acquired or until the contract or agreement has been executed.
- f. Proprietary Information Obtained by the City:
Proprietary information will not be disclosed if any of the following apply:
 - a. The outside party providing the information submits the information with the expressed intention to maintain the confidence.
 - b. The information has not previously been disclosed to others.
 - c. The outside party has a reasonable expectation that the information will be maintained in confidence based upon how the City obtained the information.

Examples include, but are not limited to, financial information or computer source code submitted as a condition of a license, permit or certificate.

Public Interest Balancing Test

If a writing does not fit a specific category of exemption, the writing *may* still be exempt if it meets the Public Interest Balancing Test. According to GC §6255(a), “The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of [the Public Records Act] or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” Since there is a significant body of case law analyzing this balancing test, City staff must consult with the City Attorney’s office when determining whether a record may be disclosed upon request.

Databases: “Databases” consist of electronic files and fields of data, which manage and store information useful to the department or division. “Databases” are modified over time through the addition, deletion, or modification of data. “Databases” may be maintained by the City or hosted by outside sources. The specific policy regarding databases can be found in Section 6.1.7.

Duplicate Copy: A record that is a copy of an Official Record if the copy is not within the definition of a “Trusted Copy”. In addition to hard copies of Official Records, “Duplicate Copies” also include, but are not limited to, database backups or other copies of electronic records.

Electronic Mail (E-mail): Messages and communications transmitted over internal and external networks are considered “Electronic Mail”. The City considers “Electronic Mail” a transitory record, and the City’s policy on “Electronic Mail” is addressed in Section 5.5.5.

Electronic Records: Records that contain information readable by machine or computer, and which may include information such as text, numbers, graphs, line drawings, pictures, images, video, or sound are considered “Electronic Records”. Examples of “Electronic Records” include, but are not limited to, the following:

- Audio or video recordings
- Electronic mail
- Databases
- Digital images
- Presentation graphics
- Word processing files
- Spreadsheet files
- Voicemail

“Electronic Records” reside on, but are not limited to, media such as magnetic disks or tapes, audio or video cassettes, optical disks, DVDs, CDs, hard drives, or memory sticks.

Historical Records: Records valuable to future researchers that document accomplishments, changes, and growth of the City.

Inactive Records: Records that are no longer referenced, nor required to be readily accessible, in the general conduct of current City business. Such records may be stored at an off-site storage location or within the work area during their required retention period.

Indexes and Metadata: Information supporting a record that is unique and distinguishes one record from another. “Indexes” and “Metadata” may include, but are not limited to, record titles, record series codes, sequential identification numbers, dates, Office of Record, project number, account number, or other source information describing the record’s contents. Such information, in and of itself, does not constitute a record.

Litigation Hold: A temporary hold on destruction of any documents potentially relevant to reasonably anticipated, pending or threatened litigation.

Media: The physical format in which a record is maintained including, but not limited to, paper, photographic, micrographic, computer storage, and any other recording or storage method.

Non-record Writing: Any writing which is not within the definition of a Record. Examples of “Non-record Writings” include writings that are not directly related to the conduct of the City’s business

and/or are used specifically for reference including, but not limited to, textbooks, brochures, catalogs, or seminar announcements.

Official Record: An “Official Record” is the original record or “Trusted Copy” having the legally recognized and enforceable quality of any writing containing information related to the conduct of the City’s business.

Office of Record (OOR): The department within the City that is responsible for maintaining a particular record series in accordance with this Policy and the Records Retention Schedules is considered the “Office of Record”. The Records Retention Schedules identify the “OOR” for each record series. Typically, the “OOR” is the department that originates the record. Exceptions may be noted on the Records Retention Schedules.

Permanent Records: Records that are required to be kept in perpetuity, usually identified by statute or other written guidance. Examples include, but are not limited to, original minutes, ordinances, resolutions, and land grant deeds.

Record: For retention purposes, a Record includes any writing containing information relating to the conduct of the business prepared, owned, used, or retained by the organization regardless of physical form or characteristics. Records include the subsets of trusted copies, confidential records, vital records, historical records, active records, inactive records, electronic records and transitory records, as defined within this Policy.

Record Inventory: An inventory helps build and maintain the Records Retention Schedules. An inventory of a department’s records where the following information is recorded:

- The type of record (record series)
- The date range of the records
- The volume of the records
- The format of the record (paper, microfilm or electronic)

Records Retention Schedule: “Records Retention Schedule” list all ‘record series’ which are prepared, owned, used, or retained by the City, and identify the required retention period for each record series. The “Records Retention Schedule”, and any amendments or updates, are approved by City Council resolution.

Record Series: A set of records which are created, stored and maintained together. “Record Series” are used as a method to organize records by function and/or document type within the City. Examples of different “Record Series” include, but are not limited to, the following:

- Contracts
- Purchase Orders
- Resolutions
- Minutes of official meetings
- Timecards
- Financial Statements

Records Division: A designated area for the storage of inactive records, which is well-organized to allow for efficient retrieval of records as needed from the department. Departments shall maintain custody and control over their records and ensure prompt and efficient handling and destruction of records pursuant to the Records Retention Schedules.

Records Coordinators or Department Records Coordinators: Designated staff within each department or division that are intimately familiar with records maintained in their department or division. The person is the main point of contact between the City Clerk’s Office and staff regarding the City’s Records Management Program and this Policy as it relates to records in their department or division.

Retention Period: A “Retention Period” is the length of time that a particular record is retained by the City before it is disposed of in accordance with this Policy. The “Retention Periods” for City records are identified on the Records Retention Schedule.

Transitory Records: A writing with only transitory (short-lived) value since the information is used for a relatively short period of time. Examples include, but are not limited to, the following documents that are not retained in the ordinary course of business:

- Preliminary drafts
- Notes
- Interagency/intra-agency memoranda
- Voicemail
- Handheld recorders

Trusted Copy: A “Trusted Copy” is a copy of an originally created record if the copy is created on a Trusted System. “Trusted Copies” are photographically, or electronically generated documents controlled by daily operational procedures and policies to ensure reasonable expectations of document integrity, free from physical or electronic additions, subtractions or other modifications that would change the content of the original document.

Once a “Trusted Copy” is created, it will replace the original source document, and the “Trusted Copy” must then be retained as the Official Record in accordance with the requirements of this Policy and the Records Retention Schedules.

Trusted System: As defined by GC §12168.7(c), “Trusted System” means a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored.” Thus, a “Trusted System” includes any method of creation, management and/or storage of an Official Record, as defined within this Policy.

Vital Record: Includes records that are needed to continue or resume basic City operations in the event of a disaster.

Writing: As defined by Government Code §7290.545, “Writing” means any handwriting, typewriting, printing, photo stating, 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.”

Thus, “Writing” is a comprehensive definition that includes the subsets of public records, trusted copies, confidential records, duplicate copies, non-record writings, vital records, historical records, active records, inactive records, electronic records, and transitory records, as defined within this Policy.