

CIVIC SAN DIEGO BOARD POLICY

Section: 5.0 – Document Retention
Sub-section: 5.01 – Document Retention Policy
Effective Date: September 26, 2018

1. PURPOSE

- 1.1 The purpose of this policy is to provide guidelines to staff regarding the retention, management and legally permissible destruction of OFFICIAL RECORDS of the CORPORATION in accordance with laws governing the retention of records of a public entity and the ordinances and policies of the CITY and/or AGENCY (“CITY/AGENCY”)
- 1.2 CORPORATION OFFICIAL RECORDS are not directly subject to CITY/AGENCY records disposition requirements; however, this policy is intended to provide for the EVALUATION and MANAGEMENT of CORPORATION OFFICIAL RECORDS in a manner that (a) is consistent with CITY/AGENCY requirements; (b) meets the common goals of ensuring OFFICIAL RECORDS are retained as required by law and in such a way as to facilitate disclosure to members of the public upon request as required by the California Public Records Act, Government Code section 6250 *et seq.*; and (c) satisfies the requirements of the CORPORATION’s BY-LAWS and its OPERATING AGREEMENTS.

2. EFFECTIVE DATE AND AMENDMENTS

- 2.1 This Policy shall be effective upon the approval of the BOARD. This Policy may only be amended by approval of the BOARD, except as provided in Policy 1.01, Section 5.8.

3. DEFINITIONS

- 3.1 AGENCY – The City of San Diego as the Successor Agency to the former Redevelopment Agency of the City of San Diego.
- 3.2 BOARD – The Board of Directors of the CORPORATION.
- 3.3 BY-LAWS – The Amended and Restated By-Laws of the Corporation, adopted July 31, 2012 (Document No. R-307539).
- 3.4 CITY – The City of San Diego.
- 3.5 CORPORATION – Civic San Diego.

- 3.6 DISCOVERY – The pretrial disclosure of pertinent facts or documents by one or both parties to a civil action or proceedings.
- 3.7 DUPLICATE RECORD – Copies or reproductions of ORIGINAL RECORDS, whether or not the same physical form as the original, which are retained for personal reference or for operational requirements.
- 3.8 E-MAIL – Short for electronic mail, the transmission of messages over communications networks.
- 3.9 EVALUATION – Determining the value of RECORDS based upon their (1) administrative, legal, fiscal, and historical uses; (2) relative activity; (3) relationship to other RECORDS; and (4) evidential and informal value.
- 3.10 LITIGATION HOLD – A written request by CORPORATION Counsel, special legal counsel to the CORPORATION, or the President to suspend the routine destruction of and affirmatively preserve certain RECORDS that may be relevant to actual or threatened litigation or governmental investigation.
- 3.11 MANAGEMENT – Actions taken with regards to RECORDS and NONRECORDS following their EVALUATION. These actions may include the preservation of OFFICIAL RECORDS, transfer or inactive RECORDS to an archiving system or the destruction of DUPLICATE RECORDS or NONRECORDS not required in the course of the CORPORATION’s business.
- 3.12 NONRECORD – Material which is not retained in the regular course of business or is a temporary aid, not created for the purpose of preserving its own documentary or informational content for future reference. This includes but is not limited to:
 - (A) Transmittal letters and acknowledgments which do not add any information to the material transmitted.
 - (B) Requests for printed material after the requests have been filled.
 - (C) Informal notes, worksheets, and rough drafts of letters, memoranda, or reports that do not represent basic steps in the preparation of documents.
 - (D) Shorthand notes, including stenographic notebooks and stenotype tapes, and dictating media which have been transcribed.
 - (E) Miscellaneous notices of community affairs, employee meetings, or holidays.
 - (F) Stocks of publications or unused blank forms that are kept for supply purposes only.
 - (G) Tickler, follow-up, or suspense copies of correspondence.
 - (H) Extra copies of documents already in an official file.

- (I) Publications or reference materials received or acquired from outside sources such as professional organizations, conferences, seminars, or workshops.
 - (J) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.
- 3.13 OFFICIAL RECORD – Any RECORD containing information relating to the conduct of the public's business prepared, owned, used, or retained by the CORPORATION, regardless of physical form or characteristics.
- 3.14 OPERATING AGREEMENTS – The agreements for consulting services by and between the City of San Diego and Civic San Diego for Administration of Certain Planned Districts, the Downtown Community Parking District and Economic Development Services and for Agency and Housing Agency Services (Document No. RR-307537) as they now exist or may be amended or restated.
- 3.15 ORIGINAL RECORD – The first or initial documentation, that of which anything else is a copy or reproduction; or, a DUPLICATE RECORD with any original documentation.
- 3.16 PRESIDENT – The President of the CORPORATION.
- 3.17 RECORD – Any WRITING, including all books, papers, maps, exhibits, magnetic or paper tapes, CDs, DVDs, photographic films and prints, e-mail, electronic documents, and other documentary material regardless of physical form or characteristics, containing any information relating to the conduct of the public's business produced, received, owned or used by the CORPORATION.
- 3.18 RECORDS RETENTION PERIOD – The length of time a RECORD must be retained to fulfill its administrative, fiscal, historical and/or legal function.
- 3.19 RECORDS RETENTION SCHEDULE – A listing of RECORDS by type indicating the applicable RECORDS RETENTION PERIOD. The RECORDS RETENTION SCHEDULE constitutes authority for the destruction of RECORDS listed thereon, after required retention periods have lapsed.
- 3.20 WRITING – Includes handwriting, typewriting, printing, photostatting, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents, retained in the ordinary course of business.

4. PROCEDURES

- 4.1 The PRESIDENT or his/her designee is responsible for the oversight of the DISPOSITION of OFFICIAL RECORDS. The PRESIDENT, or his/her designee, is also responsible for ensuring public access to RECORDS in

accordance with the California Public Records Act. The PRESIDENT's responsibility hereunder shall include the following, which shall be performed by the PRESIDENT or his/her designee:

- (A) Establish and disseminate a RECORDS RETENTION SCHEDULE applicable to CORPORATION RECORDS in accordance with applicable law (The initial RECORDS RETENTION SCHEDULE is attached hereto as Attachment A). The schedule may be amended, as deemed necessary and appropriate, by the President with the review and consent of CORPORATION Counsel.
- (B) Providing for an appropriate system of MANAGEMENT of OFFICIAL RECORDS in accordance with this Policy and for the entire period required by the current RECORDS RETENTION SCHEDULE. Such system shall also ensure that OFFICIAL RECORDS are adequately accessible to ensure compliance with the requirements of the California Public Records Act.
- (C) Ensuring the proper application of retention periods set forth in the RECORDS RETENTION SCHEDULE to OFFICIAL RECORDS and compliance with all conditions and prerequisites to the DISPOSITION, including destruction, of RECORDS. The PRESIDENT or his/her designee is authorized as the delegate of the BOARD to exercise the authority to the BOARD under Government Code section 34090 to approve the destruction of RECORDS in accordance with this Policy and the RECORDS RETENTION SCHEDULE.
- (D) Ensuring appropriate response, including providing access to OFFICIAL RECORDS, to a request for access pursuant to the California Public Records Act and adopted policies of the CORPORATION. Non-disclosure of OFFICIAL RECORDS shall be appropriate only in accordance with the law and with the concurrence of CORPORATION Counsel.
- (E) Ensuring that the RECORDS RETENTION SCHEDULE is periodically updated in order to comply with changes in law or CITY/AGENCY policy.
- (F) Ensuring the safety of NONRECORDS that are either:
 - 1) Official records of the CITY/AGENCY or a CITY/AGENCY department, which shall be transferred promptly to the CITY/AGENCY Clerk; or
 - 2) Records that are not OFFICIAL RECORDS or CITY/AGENCY official records but that are valuable historical RECORDS in the CORPORATION's custody. If said RECORDS are original and sole copies, and use of RECORDS endangers their ultimate

preservation, the PRESIDENT shall ensure that copies are made and used in place of originals.

5. POLICY

- 5.1 Each CORPORATION official or employee who has in his or her possession any RECORDS in any form, including electronic form, shall be responsible to determine their administrative, fiscal, legal and historical value and to identify OFFICIAL RECORDS. In no case shall any CORPORATION official or employee destroy any RECORD without first making an EVALUATION to determine that the RECORD is not an OFFICIAL RECORD subject to retention in accordance with the RECORDS RETENTION SCHEDULE. In the event any CORPORATION official or employee is unsure how a RECORD is required to be MANAGED, he/she should request guidance from the PRESIDENT or his/her designee. Records determined to be official records of the CITY/AGENCY shall be transferred to the CITY/AGENCY Clerk and shall not be destroyed by CORPORATION officials or employees.
- 5.2 Each CORPORATION official or employee who has in his or her possession any OFFICIAL RECORDS shall ensure their appropriate MANAGEMENT in accordance with the retention system established by the PRESIDENT and in such a way as to ensure OFFICIAL RECORDS are accessible in the event they are required to be disclosed pursuant to the California Public Records Act. OFFICIAL RECORDS shall not be described as “miscellaneous” or “various,” or words of similar connotation such that compliance with the foregoing is compromised.
- 5.3 Each CORPORATION official’s or employee’s responsibility to EVALUATE and MANAGE OFFICIAL RECORDS shall include the duty to preserve E-MAIL and other electronic documents constituting OFFICIAL RECORDS in such a manner as to ensure that they will not be lost or automatically deleted.
- 5.4 No OFFICIAL RECORD shall be destroyed until the PRESIDENT or his/her designee first makes all of the following determinations:
- (A) Required retention periods listed in the RECORDS RETENTION SCHEDULE, as applicable, have lapsed;
 - (B) The RECORD is not a CITY/AGENCY official record subject to retention by the CITY/AGENCY for an additional period;
 - (C) The RECORD is no longer required to fulfill any administrative, fiscal, legal, or historical interests of the CORPORATION, CITY/AGENCY or the public; and
 - (D) The PRESIDENT or his/her designee and the Vice President of the department responsible for the document have consented in writing to the destruction of the OFFICIAL RECORD. In cases where it is unclear if a

document should be destroyed, CORPORATION Counsel should be consulted prior to the destruction of the document.

5.5 RECORDS may be destroyed without the approval of the PRESIDENT or his/her designee or the Vice President of the department responsible for the document under the following circumstances:

- (A) NONRECORDS and DUPLICATE RECORDS may be destroyed when they are no longer needed in the course of the CORPORATION's or the CITY's business. Destruction of the following is authorized hereunder: rough drafts, notes, working papers (except audits), cards, listings, nonpermanent indices, and papers used for controlling work or transitory files.
- (B) The PRESIDENT or his/her designee may authorize the destruction of ORIGINAL RECORDS that are at least two (2) years old upon microfilming, photographing or otherwise making and storing film, optical disk or electronic copies of the ORIGINAL RECORD in accordance with all of the requirements of Government Code section 34090.5. Such RECORDS shall be made accessible for public reference as the ORIGINAL RECORD was. A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes. Any page of a RECORD that cannot be reproduced on film with full legibility shall be permanently preserved in a manner that will afford easy reference.

5.6 In no case may any of the following ORIGINAL RECORDS be destroyed: (i) RECORDS affecting the title to real property or liens thereon; (ii) court RECORDS; (iii) RECORDS required to be kept by statute; (iv) RECORDS less than two years old; (v) the minutes, ordinances, or resolutions of the BOARD; and (vi) RECORDS subject to a LITIGATION HOLD.

6. E-MAIL RETENTION POLICY

6.1 E-MAIL to or from any CORPORATION official or employee, which are OFFICIAL RECORDS in need of protection/retention in accordance with the California Public Records Act and pursuant to the relevant provisions of this Policy (Gov. Code §§ 6250-6276.48) shall be appropriately MANAGED. The following guidelines apply:

- (A) Any E-MAIL including any attachments regardless of format, which is an OFFICIAL RECORD, must be preserved in accordance with the RECORDS RETENTION SCHEDULE. It is the responsibility of individual officials and employees to EVALUATE any E-MAIL to determine whether it is an OFFICIAL RECORD which must be retained in accordance with relevant provisions of this policy. Generally, an E-MAIL message and any attachments regardless of format may be considered an OFFICIAL RECORD if it:

- 1) is created or received in connection with official CORPORATION business;
 - 2) documents the formulation and implementation of CORPORATION policies and decisions; or
 - 3) initiates, authorizes or completes a transaction of official CORPORATION business.
- (B) Preliminary drafts, notes or interagency or intra-agency memoranda which are not retained by the CORPORATION in the ordinary course of business are generally NONRECORDS. Such NONRECORD E-MAILS should not be retained unless they are otherwise required to be kept by law or their preservation is necessary or convenient to the discharge of an official's or employee's duties or the conduct of the CORPORATION's business. Whenever a CORPORATION official or employee sends or receives an E-MAIL, he or she shall, as soon as reasonably practicable, EVALUATE such E-MAIL to determine whether it constitutes an OFFICIAL RECORD and shall promptly delete NONRECORDS. Deleted E-MAILS shall be automatically purged from the E-MAIL system after 120 days. CORPORATION Counsel can assist you in determining whether an E-MAIL is required to be retained and/or is necessary or convenient to the discharge of your duties or the conduct of the CORPORATION business. Examples of E-MAIL messages that are generally considered NONRECORDS may include:
- 1) personal messages and announcements not related to official CORPORATION business;
 - 2) messages with attached copies or extracts of documents distributed for convenience or reference (with the ORIGINAL RECORDS being preserved according to relevant provisions of this Policy); and
 - 3) messages that are essentially cover notes or distribution slips.
- 6.2 E-MAILS which constitute OFFICIAL RECORDS shall be retained and otherwise MANAGED in accordance with this RECORDS RETENTION POLICY. CORPORATION officials or employees who send an E-MAIL that qualifies as an OFFICIAL RECORD shall be the person responsible for preserving that E-MAIL. This may be accomplished by moving Official Record E-MAIL from the inbox to organized folders within the E-MAIL system. In no case shall any E-MAIL which constitutes an OFFICIAL RECORD be deleted from an official's or employee's Inbox unless it is preserved in either electronic form or printed form, or unless it is no longer subject to retention pursuant to the current RECORDS RETENTION SCHEDULE. All E-MAILS that are retained electronically must be easy to retrieve, view and print out if necessary.

- 6.3 In the event a records request or court-issued demand is made for E-MAIL, the employees having control over such E-MAIL, once they become aware of the request or demand, shall use their best efforts, by any responsible means available, to temporarily preserve any E-MAIL which is in existence until it is determined whether such E-MAIL is subject to preservation, public inspection or disclosure.

7. LITIGATION HOLDS

- 7.1 The CORPORATION has a duty to preserve any relevant data when there is a possibility of litigation. CORPORATION Counsel or special legal counsel to the CORPORATION or the President will issue a LITIGATION HOLD notifying the CORPORATION of the need to preserve RECORDS for DISCOVERY when the CORPORATION becomes aware of a potential claim, actual claim, or a lawsuit against the CORPORATION. When CORPORATION officials or employees receive a LITIGATION HOLD, they shall preserve any RECORDS, including E-MAILS and attachments that have any information relevant to that matter.
- 7.2 E-MAILS requiring extended period of preservation, such as E-MAILS needed for DISCOVERY, must be moved to the Project Directory.
- 7.3 Any RECORD that relates to a claim or potential claim against the CORPORATION must be preserved. Likewise any RECORD that may relate to a lawsuit filed against the CORPORATION, even if a subpoena or court order for such RECORD has not yet been issued, must be preserved.