



A Limited Liability Partnership • Est. 1939

Alan F. Doud, Partner

October 10, 2023

VIA USPS CERTIFIED MAIL
AND EMAIL TO:
jt@jtfoxlaw.com

J.T. Fox, Esq.
Law Offices of J.T. Fox & Associates, APC
556 S. Fair Oaks Ave., No. 444
Pasadena, CA 91105

Re: Response to Letter to Frazier Park Public Utility District Dated
September 29, 2023

Dear Mr. Fox:

Our office serves as general counsel to the Frazier Park Public Utility District ("District"). This letter responds to your letter to the District, dated September 29, 2023, which the District received on September 30, 2023. Please direct all future communications regarding this matter to this office.

Insofar as your letter requests records in possession of the District, the District is treating your letter as a Public Records Act request made pursuant to Government Code section 7920.00 *et seq.*, and this letter serves as the response required under Government Code section 7922.535(a).

Your Request seeks records described in your Request as follows:

1. *All construction plans for the construction of the new underground water pipeline and new well in the proposed area.*
2. *Copy of agency's studies and tests for alternative locations for a well to supplement and eventually replace Well No.5. (which apparently is ending its useful life) for your agency to fulfill the public purpose of satisfying its obligations to its customers to provide a safe and reliable water supply.*
3. *A list of all property owners that are affected by Well No. 5.*

You also requested “*certain information as to your Agency's General Manager named Jonnie Allison as follows: (1) Mr. Allison's participation in regards to your agency's proposed project herein, and (2) whether Mr. Allison owns real property directly or indirectly near the proposed Well No. 8 site or whether he owns property that borders the property owned by my client.*”

The District confirms that it has disclosable public records in its possession that contain information that is responsive to your request.

Limitations on Disclosure

Please note that the District's response is subject to the following caveats. To the extent any record is withheld based on exemption or privilege, those determinations will be made by, Jonnie Allison, the District's General Manager.

Attorney-Client Privilege. Documents subject to attorney-client privilege are exempt from disclosure under the Public Records Act. (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 372–373.) Such records will not be disclosed.

Work Product Doctrine. Documents subject to the work product doctrine are exempt from disclosure under the Public Records Act. (*Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1422 fn.5.) Attorney work product will not be disclosed.

Utility Information. Documents related to “the name, credit history, utility usage data, home address, or telephone number of utility customers” of the District are exempt from disclosure under the Public Records Act. (Gov. Code, § 7927.410.) Such records will not be disclosed.

Deliberative Process Privilege. The “catch-all” exemption to the Public Records Act, found in Government Code section 7922.000 has been held to include a “deliberative process privilege.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 171.) Communications are subject to the deliberative process privilege where the possibility of disclosure might lead to less than candid discussion of policy matters within the agency. Records subject to this privilege will be redacted or withheld.

Drafts, Notes, and Memoranda. Many records created by the District are “drafts, notes, or interagency or intra-agency memoranda that are not retained ... in the ordinary course of business.” (Gov. Code, § 7927.500.) When the District's interest in withholding those records is greater than the public interest in their disclosure, they will not be disclosed.

Production of Records

The District will provide such records as they become available, and expects that it will have completed its response to your request by no later than Friday, November 3, 2023. The District is presently willing to forego reimbursement for costs of reproduction, but reserves the right under Government Code section 7922.575 to reimbursement for such costs in the future.

Additionally, despite our diligent efforts, we are not able to clearly discern Item 3 of your request with regard to the term "property owners that are affected by". In an effort to be responsive to your request we have interpreted this inquiry to mean District customers who receive water service from the District.

We are also unable to discern what you mean by "directly or indirectly near the proposed Well No. 8" with regard to the information you request concerning Mr. Allison. In an effort to be responsive to your request we have interpreted "directly or indirectly near" to mean "in close proximity" to Well No. 8.

Finally, as to your request for information regarding "Mr. Allison's participation in regards to your agency's proposed project herein", the District advises that as the District's General Manager, Mr. Allison oversees all aspects of the District's operations. Consequently, information concerning his participation in this matter could include a broad range of documents, the identification, organization and production of which could delay the District's response. We would be happy to discuss ways in which to possibly focus your request in a manner that more particularly describes the information you are seeking.

We welcome any clarification on these matters that you are willing to provide. In the meantime, the District will respond to your request based on the understandings described above.

Eminent Domain

The District appreciates your confirmation that your client intends to exercise its rights to order an independent appraisal of the subject property by an appraiser licensed by the Office of Real Estate Appraisers up to Five Thousand Dollars (\$5,000.00). Upon completion of the appraisal, please submit an invoice and a summary appraisal report, and the District will reimburse your client for the actual cost of the appraisal up to the \$5,000 limit.

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The District also appreciates your suggestion to schedule a meeting to discuss a solution to this matter. We would welcome the opportunity to do so as soon as possible, and recommend that we not postpone such discussions until after the District has fulfilled its response to your request for records, as the District intends to diligently proceed with condemnation proceedings, and in particular with the hearing on the resolution of necessity.

We look forward to hearing from you regarding any clarification you wish to provide regarding the above records requests, and on scheduling a call with the District.. Please feel free to contact me at adoud@youngwooldridge.com, or (661) 327-9661.

Very truly yours,



Alan F. Doud