



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 14, 2020

Ms. Judith Benton
Senior Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2020-31199

Dear Ms. Benton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 858088 (Reference No. LGL 20-078).

The City of Waco (the "city") received a request for all documents pertaining to a specified resolution. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Wells Fargo Merchant Services, LLC ("Wells Fargo"). Accordingly, you state, and provide documentation showing, you notified Wells Fargo of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Paymentus Corporation ("Paymentus"). *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted representative sample of information.¹

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Wells Fargo explaining why the submitted information should not be released. Therefore, we have no basis to conclude Wells Fargo has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold any portion of the submitted information related to Wells Fargo on the basis of any proprietary interest it may have in the information.

Next, we note Paymentus seeks to withhold information not submitted to this office by the city. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the city, this ruling does not address this information and is limited to the information submitted as responsive by the city. As you raise no exceptions to disclosure, the city must release the submitted information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/jxd

Ref: ID# 858088

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)