



MESSER ★ FORT

THE MUNICIPAL LAW FIRM

FRISCO | DALLAS | AUSTIN | ABILENE

October 22, 2024

Via MuckRock.com Portal and E-Mail:

Bernadette Feazell

173334-68816158@requests.muckrock.com

www.muckrock.com/respond/1839309

RE: Request for Clarification and Cost Estimate Letter in Response to the Request for Public Information Submitted by Bernadette Feazell (September 24, 2024); ORR ID: BV101524TA

Dear Ms. Feazell:

This letter is in reference to the public information request (“Request”) submitted by you under the Texas Public Information Act (“Act”), Chapter 552, Government Code. The City of Bruceville Eddy (“City”) received your Request on September 24, 2024, in which you requested “any and all records, emails, text messages, or any other documentation into the termination of the former Code Enforcement Officer, Thomas Arnold.”

The City requests that you clarify your Request as follows:

1. Information related to personnel files contains confidential information such as health insurance, retirement, and tax elections, as well as personal and emergency contact information made confidential by sections 552.117 and 552.1175 of the Public Information Act. Please clarify whether you seek the aforementioned confidential information or whether you only seek Thomas Arnold’s personnel records relating to training, commendations, disciplinary actions, and performance evaluations.

Additionally, **the City asks you to clarify whether you seek information that is confidential under the Public Information Act.** Under the Public Information Act, some categories of information do not have to be released. Exceptions to disclosure fall into two general categories: 1) mandatory exceptions that make information confidential and require a governmental body to withhold information, and 2) discretionary exceptions that allow but do not require a governmental body to withhold information. You may find information about mandatory and discretionary exceptions [HERE](#).¹ In most instances, the City is required to request a decision from the Attorney General in order to withhold information from you. However, you may permit the City to redact or withhold information without requesting an Attorney General decision. You are not required to agree to the redaction or withholding of any information responsive to your Request, but doing so may streamline the handling of your request. If you agree to redactions and withholding in this

¹ <https://www.texasattorneygeneral.gov/open-government/members-public/confidential-information-under-public-information-act>

Request, then you may request the redacted and/or withheld information in a future information request. If you are requesting such privileged and/or confidential information, the City reserves the right to seek an opinion from the Attorney General's Office to authorize the withholding of such records and information.

This request for clarification is being sought pursuant to Government Code Section 552.222 and is being made in good faith. Please provide our office with the requested clarification in writing at your earliest convenience. If we do not receive a clarification from you by the 61st day from the date of this letter, our office will consider your Request withdrawn by operation of law pursuant to the Public Information Act, Texas Government Code Section 552.222(d). Please note that per page 20 of The Office of the Attorney General of Texas Public Information Act Handbook 2022, "the ten-business day period to request an attorney general ruling is measured from the date the requestor responds to the request for clarification or narrowing" (citing City of Dallas v. Abbott, 304 S.W.3d 380, 387 (Tex. 2010)).

Additionally, the City would like to inform you that as of the date of this letter, **it has not received a form of payment in the amount of \$27.00 as stated in your Request.** The City will be glad to make copies of the requested documents available to you along with any redactions or withholding of information authorized by the Texas Attorney General's Office once payment has been received. For the sake of clarity and compliance with the Act, *the estimated costs to produce and copy all the records for time period requested are as follows:*

STATEMENT OF CHARGES

1. 90 minutes of personnel time @ \$15.00 per hour based on the time associated with locating, compiling, redacting, and producing responsive records [1 TAC 70.3(d)(1)];	\$22.50
2. 20% overhead charge [\$22.50 x .20]	\$4.50
Total Estimated Charges	\$27.00

Pursuant to Section 552.263(a)(1) of the Act, you are hereby required to submit a deposit in the amount of **\$27.00** to the City for anticipated costs to process your Request. *Please submit this amount by cashier's check, business check or money order payable to "City of Bruceville Eddy" to the attention of the "City of Bruceville Eddy, City Administrator" by mail or in person at 144 Wilcox Drive Eddy, TX 76524.* If applicable, you will be refunded any portion of the required deposit not used to pay the actual cost of retrieving, redacting, and copying documents responsive to the Request. If you have previously sent payment, we suggest you void the check mailed to the City and issue a new check that is mailed to the address listed above. If you have questions or concerns regarding this matter, please contact the undersigned below for further assistance.

Please be advised that the City can submit an updated itemized statement to you if it later determines, before it makes the records available, that the estimated charges will exceed the charges detailed in the written itemized statement by twenty percent (20%) or more. V.T.C.A.

GOVERNMENT CODE § 552.2615(c). In such an event, the City will send you a written updated itemized statement that details all estimated charges that will be imposed for providing copies of the requested public information, including allowable charges for labor or personnel costs.

Please be reminded that for purposes of Chapter 552, Subchapters F and G of the Act, a request for copies of public information is not considered to have been received by a governmental body until the governmental body receives the deposit for payment of anticipated costs. V.T.C.A. GOVERNMENT CODE § 552.263(e). The City is not required to send copies of the public information to you until you pay the postage and any other applicable charges, including deposits that have accrued under Chapter 552 of the Act. V.T.C.A. GOVERNMENT CODE § 552.221(b)(2).

Due to the amount of personnel time required to respond to your Request, we reasonably estimate that it will take ten business days to respond to your Request following receipt of the payment. Ten business days is reasonably necessary because the City will schedule an employee or agent to spend one and a half hours to locate, compile, redact, and produce documents responsive to your Request in lieu of performing their other designated job duties. Please be advised that the City has ten business days to seek an Attorney General determination as to whether the records you request are subject to disclosure under the Public Information Act. Reducing the scope of your Request may reduce the costs associated with responding to your Request. Please contact me if you would like to reduce the scope of your Request. You will not be charged for the labor costs of an attorney conducting legal review of the documents to determine applicable Public Information Act exceptions.

Section 552.2615 of the Act imposes the following duties on you as the requestor of the concerned public information and requires that I inform you of these duties:

1. You must provide me with a mailing, facsimile transmission, or electronic mail address to receive the information requested. It is your choice as to which type of address to provide, however please be aware that some responsive documents may not be available in electronic format.
2. Your Request will be considered **automatically withdrawn** if you do not provide a **written** response, either by mail, in person, by facsimile or by electronic mail, to this itemized statement and any updated statement in the time and manner prescribed by Section 552.2615 of the Act. Section 552.2615 requires that you respond **within ten business days** after the date that this statement was sent to you. My address, facsimile number and email address are noted above on the letterhead. Your response must inform me that either: (1) you will accept the estimated charges; (2) that you are modifying your Request in response to the itemized statement; or (3) that you have sent to the Attorney General a complaint alleging that you have been overcharged for being provided with a copy of the requested information.

Section 552.2615 provides that an itemized statement or updated itemized statement will be considered to have been sent to you on the date that: (1) the statement is delivered to you in person; (2) on the date that it is deposited the properly addressed statement in the United States mail; or

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(3) on the date the statement is transmitted to you by electronic mail or facsimile transmission. V.T.C.A. GOVERNMENT CODE § 552.2615(e)(1)-(3). You will be considered to have responded to the itemized statement or updated itemized statement on the date that you: (1) deliver the response to me in person; (2) deposit the properly addressed response in the United States mail; or (3) the date that you transmit the properly addressed response to me by electronic mail or facsimile transmission. V.T.C.A. GOVERNMENT CODE § 552.2615(f). If you have any questions, please feel free to contact me.

Very truly yours,
MESSER & FORT, PLLC



SARA BELLA KERR
ASSISTANT CITY ATTORNEY
SARA@TXMUNICIPALLAW.COM

SBK/LA

cc: Kent Manton
City Administrator
City of Bruceville-Eddy