



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

July 3, 2012

Ms. Elizabeth White  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2012-10198

Dear Ms. White:

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# 457802 (City Reference No. PIR# 12-110).

The City of League City (the "city"), which you represent, received a request for all depository bids the city received from financial institutions. Although the city takes no position with respect to the public availability of the submitted information, you indicate its release may implicate the proprietary interests of JPMorgan Chase Bank, N.A. ("JPMorgan") and Moody National Bank ("MNB"). Accordingly, you notified JPMorgan and MNB of the request for information and their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from JPMorgan or MNB. Thus, we have no basis to conclude JPMorgan or MNB has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999)

(to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of the requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any of the information at issue on the basis of any proprietary interest JPMorgan or MNB may have in the information.

We note a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 provides “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). An access device number is one that may be used to 1) obtain money, goods, services, or another thing of value, or 2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *See id.* § 552.136(a) (defining “access device”). This office has determined bank account and routing numbers are access device numbers for purposes of section 552.136 of the Government Code. The city must withhold the routing numbers on pages 148 through 151, 153 through 203, and 206 through 209 of the file labeled “Chase\_City of League City vCD ROM” on the submitted CD under section 552.136 of the Government Code. Further, we are unable to determine if the bank account and routing numbers included in MNB’s information consist of sample or actual bank account and routing numbers. Therefore, we must rule conditionally with respect to this information. If the bank account and routing numbers appearing on pages 48 through 50, 52 through 57, 62 through 63, 66 through 74, and 82 of the file labeled “LC Part Two” on the submitted CD are actual bank account and routing numbers, they must be withheld under section 552.136. However, if these bank account and routing numbers are samples, they may not be withheld under section 552.136 and must be released.

We note a portion of the submitted information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the city must withhold the routing numbers on pages 148 through 151, 153 through 203, and 206 through 209 of the file labeled “Chase\_City of League City vCD ROM” under section 552.136 of the Government Code. To the extent the bank account and

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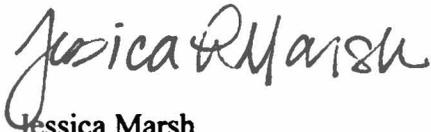
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

routing numbers on pages 48 through 50, 52 through 57, 62 through 63, 66 through 74, and 82 of the file labeled "LC Part Two" are actual bank account and routing numbers they must be withheld under section 552.136 of the Government Code. The remaining information must be released; however, any information protected by copyright may only be released in accordance with copyright law.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Jessica Marsh  
Assistant Attorney General  
Open Records Division

JM/bs

Ref: ID# 457802

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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