IN THE MATTER OF

FAYE ANDERSON AND ALL THAT
PHILLY JAZZ,
Requester

v.

CITY OF PHILADELPHIA,
Respondent

Docket No: AP 2023-2222

FACTUAL BACKGROUND

On multiple dates in late July and August of 2023, Faye Anderson and All That Philly Jazz (collectively, the “Requester”) submitted eighteen requests (collectively, the “Requests”) to various departments and offices within the City of Philadelphia (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 et seq. The Requests were submitted as follows:

On July 25, 2023, the Requester submitted five Requests to the City’s Council (“Council”), seeking:

First Request (23588)

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Mark Squilla and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

1 For organizational purposes, the OOR has listed the Requests in groups based upon the City department or office to which the Requests were sent. Given the large number of Requests at issue in the appeal, the OOR also includes the City’s RTKL request reference number to enhance clarity.
2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff regarding 76 Place;

8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff regarding meetings about 76 Place;

9. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

10. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff regarding meetings about proposals to independently evaluate 76 Place proposal;
11. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff regarding appointments to advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

12. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Councilmember Squilla and his staff with Sam Rhoads or PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

13. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with the Pennsylvania Department of Transportation, hereinafter PennDOT, and Langan Engineering and Environmental Services, Inc., hereinafter Langan, regarding 76 Place;

14. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with PennDOT and Langan regarding meetings about 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place;

16. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

17. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place; and

18. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Councilmember Squilla and his staff about meetings with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place.
Second Request (23598)

1. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember At-Large Sharon A. Vaughn and her staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Vaughn and her staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Vaughn and her staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Vaughn and her staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Vaughn and her staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place; and

6. Records including but not limited to written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Vaughn and her staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place.

Third Request (23599)

1. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Michael J. Driscoll and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Driscoll and his staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;
3. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Driscoll and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Driscoll and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Driscoll and his staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place; and

6. Records, including but not limited to, written or email communications from July 1, 2022 to July 21, 2023 between Councilmember Driscoll and his staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place.

Fourth Request (23601)

1. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Quetcy M. Lozada and her staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Lozada and her staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Lozada and her staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Lozada and her staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;
5. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Lozada and her staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place; and

6. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Lozada and her staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place.

Fifth Request (23602)

1. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Anthony Phillips and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Phillips and his staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Phillips and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Phillips and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Phillips and his staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place; and

6. Records, including but not limited to, written or email communications from December 1, 2022 to July 21, 2023 between Councilmember Phillips and his staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place.
On August 1, 2023, the Council invoked a thirty-day extension to respond to the First through Fifth Requests. See 65 P.S. § 67.902(b).

On August 17, 2023, the Requester submitted three additional Requests to the Council, seeking the following:

**Sixth Request (23894)**

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember At-Large Isaiah Thomas and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Thomas and his staff with representatives of Harris Blitzer Sports & Entertainment, including Shisveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Thomas and his staff about meetings with representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place; and

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Thomas and his staff about meetings with representatives of Wojdak Government Relations, including Tabb Bishop.

**Seventh Request (23895)**

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Curtis Jones Jr. and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;
2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Jones and his staff with representatives of Harris Blitzer Sports & Entertainment, including Shisveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Jones and his staff about meetings with representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place; and

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Jones and his staff about meetings with representatives of Wojdak Government Relations, including Tabb Bishop.

Eighth Request (23896)

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember At-Large Jim Harrity and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Harrity and his staff with representatives of Harris Blitzer Sports & Entertainment, including Shisveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Harrity and his staff about meetings with representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place; and

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Councilmember Harrity and his staff about meetings with representatives of Wojdak Government Relations, including Tabb Bishop.
On August 24, 2023, the Council invoked a thirty-day extension to respond to the Sixth through Eighth Requests. *Id.*

On July 25, 2023 and August 17, 2023, the Requester submitted two Requests to the City Managing Director’s Office (“Managing Director’s Office”), seeking:

**Ninth Request (23595)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Managing Director Tumar Alexander and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff regarding 76 Place;
8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff regarding meetings about 76 Place;

9. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

10. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff regarding meetings about proposals to independently evaluate 76 Place proposal;

11. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff regarding appointments to advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

12. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between the Managing Director and his staff with Sam Rhoads or PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

13. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place;

14. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place; and

16. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between the Managing Director and his staff about meetings with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place.
Tenth Request (23897)

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place;

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and representatives of Wojdak Government Relations, including Tabb Bishop;

5. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

6. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer and their staff regarding 76 Place;

7. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and Sam Rhoads and PIDC staff regarding 76 Place;

8. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;
9. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and Sam Rhoads and PIDC staff regarding appointments to advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal; and

10. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Michael Carroll and Sam Rhoads and PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal.

On August 1, 2023 and August 24, 2023, respectively, the Managing Director’s Office invoked a thirty-day extension to respond to the Ninth and Tenth Requests. *Id.*

On July 27, 2023 and August 17, 2023, the Requester submitted two Requests to the City Law Department (“Law Department”), seeking:

**Eleventh Request (23541)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman and the Mayor’s Office regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and Councilmember Mark Squilla and his staff regarding 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;
6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and Sam Rhoads and PIDC staff regarding 76 Place;

9. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and employees of the Department of Planning and Development, including Anne Fadullon, Eleanor Sharpe and John Mondlak regarding 76 Place;

10. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Frances Beckley and Andrew Richman, and employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu and David Kanthor regarding 76 Place;

11. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 from or to Frances Beckley and Andrew Richman regarding “Philadelphia Weekly Connect” meetings about 76 Place;

12. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Frances Beckley and Andrew Richman, and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

13. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Frances Beckley and Andrew Richman, and Sam Rhoads and PIDC staff regarding funding of proposals to independently evaluate 76 Place proposal; and

14. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Frances Beckley and Andrew Richman, and Sam Rhoads and PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal.
Twelfth Request (23893)

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and the Mayor’s Office regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and Councilmember Mark Squilla and his staff regarding 76 Place;

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

5. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place;

6. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and representatives of Wojdak Government Relations, including Tabb Bishop;

7. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

8. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and employees of the Department of Planning and Development, including Anne Fadullon and John Mondlak regarding 76 Place;
9. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu, David Kanthor and Eleanor Sharpe regarding 76 Place;

10. Records from April 1, 2022 to August 16, 2023 from or to Brendan O’Rourke regarding “Philadelphia Weekly Connect” meetings about 76 Place;

11. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Brendan O’Rourke and Sam Rhoads and PIDC staff regarding 76 Place;

12. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from March 1, 2023 to August 16, 2023 between Brendan O’Rourke and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

13. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from March 1, 2023 to August 16, 2023 between Brendan O’Rourke and Sam Rhoads and PIDC staff regarding funding of proposals to independently evaluate 76 Place proposal; and

14. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from March 1, 2023 to August 16, 2023 between Brendan O’Rourke and Sam Rhoads and PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal.

On August 3, 2023 and August 24, 2023, respectively, the Law Department invoked a thirty-day extension to respond to the Eleventh and Twelfth Requests. *Id.*

On July 25, 2023, the Requester submitted a Request to the City Mayor’s Office (“Mayor’s Office”), seeking:

**Thirteenth Request (23591)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Jim Kenney and his staff with David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;
2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer or their staff regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding 76 Place;

8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding meetings about 76 Place;

9. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

10. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding meetings about proposals to independently evaluate 76 Place proposal;
11. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding appointments to advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

12. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff regarding the Office of Public Engagement and the advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

13. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Mayor Kenney and his staff with Sam Rhoads or PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal;

14. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with the Pennsylvania Department of Transportation, hereinafter PennDOT, and Langan Engineering and Environmental Services, Inc., hereinafter Langan, regarding 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with PennDOT and Langan regarding meetings about 76 Place[;]

16. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian about 76 Place;

17. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

18. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place; and

19. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Mayor Kenney and his staff about meetings with Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place.
On August 1, 2023, the Mayor’s Office invoked a thirty-day extension to respond to the Thirteenth Request. *Id.*

On July 26, 2023, the Requester submitted a Request to the City Department of Planning and Development (“Department of Planning and Development”), seeking:

**Fourteenth Request (23620)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe and John Mondlak, and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe and John Mondlak, and David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and the Mayor’s Office regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and the Mayor’s Office regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Councilmember Mark Squilla and his staff regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Councilmember Mark Squilla and his staff regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;
8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

9. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

10. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

11. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

12. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff about meetings with Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

13. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff regarding 76 Place;

14. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff regarding meetings about 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu and David Kanthor regarding 76 Place;
16. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu and David Kanthor regarding meetings about 76 Place;

17. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with employees of the Philadelphia Law Department, including Frances Beckley and Andrew Richman regarding 76 Place;

18. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff with employees of the Philadelphia Law Department, including Frances Beckley and Andrew Richman regarding meetings about 76 Place;

19. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 from or to Anne Fadullon, Eleanor Sharpe and John Mondlak regarding “Philadelphia Weekly Connect” meetings about 76 Place;

20. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and SEPTA Chief Operating Officer Scott Sauer regarding 76 Place;

21. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and SEPTA Chief Operating Officer Scott Sauer regarding meetings about 76 Place;

22. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and the Pennsylvania Department of Transportation, hereinafter PennDOT, and Langan Engineering and Environmental Services, Inc., hereinafter Langan, regarding 76 Place;

23. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and PennDOT and Langan regarding meetings about 76 Place;
24. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

25. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff regarding meetings about proposals to independently evaluate 76 Place proposal;

26. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff regarding funding of proposals to independently evaluate 76 Place proposal; and

27. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Fadullon, Eleanor Sharpe, John Mondlak and other Department of Planning and Development staff, and Sam Rhoads and PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal.

On August 2, 2023, the Department of Planning and Development invoked a thirty-day extension to respond to the Fourteenth Request. *Id.*

On July 27, 2023, the Requester submitted a Request to the City Commerce Department (“Commerce Department”), seeking:

**Fifteenth Request (23540)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Commerce Director Anne Nadol and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and David Adelman, chairman of 76 Devcorp, regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and the Mayor’s Office regarding 76 Place;
4. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and the Mayor’s Office regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and Councilmember Mark Squilla and his staff regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and Councilmember Mark Squilla and his staff regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

8. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

9. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

10. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

11. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff regarding 76 Place;

12. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff regarding meetings about 76 Place;

13. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and employees of the Department of Planning and Development, including Anne Fadullon, Eleanor Sharpe and John Mondlak regarding 76 Place;
14. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu and David Kanthor regarding 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 between Anne Nadol and employees of the Philadelphia Law Department, including Frances Beckley and Andrew Richman regarding 76 Place;

16. Records, including but not limited to, written or email communications from April 1, 2022 to July 21, 2023 from or to Anne Nadol regarding “Philadelphia Weekly Connect” meetings about 76 Place;

17. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

18. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff regarding meetings about proposals to independently evaluate 76 Place proposal;

19. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff regarding funding of proposals to independently evaluate 76 Place proposal; and

20. Records, including but not limited to, written or email communications from March 1, 2023 to July 21, 2023 between Anne Nadol and Sam Rhoads and PIDC staff naming members of advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal.

On August 3, 2023, the Commerce Department invoked a thirty-day extension to respond to the Fifteenth Request. Id.

On July 28, 2023, the Requester submitted a Request to the City Department of Streets (“Streets Department”), seeking:

**Sixteenth Request (23555)**

1. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and the Mayor’s Office regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;
2. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and the Mayor’s Office regarding meetings about 76 Place;

3. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Councilmember Mark Squilla and his staff regarding 76 Place;

4. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Councilmember Mark Squilla and his staff regarding meetings about 76 Place;

5. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;

6. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding meetings about 76 Place;

7. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;

8. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees about meetings with representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place;
9. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

10. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees about meetings with Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place;

11. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Sam Rhoads and PIDC staff regarding 76 Place;

12. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Sam Rhoads and PIDC staff regarding meetings about 76 Place;

13. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and employees of the Department of Planning and Development, including Anne Fadullon, Eleanor Sharpe and John Mondlak regarding 76 Place;

14. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and employees of the City Planning Commission, including Paula Brumbelow Burns, Ian Litwin, Martine Decamp, Sarah Chiu and David Kanthor regarding 76 Place;

15. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees and employees of the Philadelphia Law Department, including Frances Beckley and Andrew Richman regarding 76 Place;

16. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and SEPTA employees, including Chief Operating Officer Scott Sauer regarding 76 Place;
17. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and the Pennsylvania Department of Transportation, hereinafter PennDOT, and Langan Engineering and Environmental Services, Inc., hereinafter Langan, regarding 76 Place;

18. Records, including but not limited to, written or email communications from April 1, 2022 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and PennDOT and Langan regarding meetings about 76 Place;

19. Records, including but not limited to, written or email communications from April 1, 2023 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and employees of Gensler Design, including Alex Chan regarding 76 Place; and

20. Records, including but not limited to, written or email communications from March 1, 2023 to July 27, 2023 between Kasim Ali, Michelle Brisbon, Kisha Duckett; Vadim Fleysh, Mark Washington and other Department of Streets employees, and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal.

On August 4, 2023, the Streets Department invoked a thirty-day extension to respond to the Fifteenth Request. *Id.*

On August 17, 2023, the Requester submitted a Request to the City Water Department ("Water Department"), seeking:

**Seventeenth Request (23886)**

1. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and David Adelman, chairman of 76 Devcorp, regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place;
3. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and SEPTA General Manager and CEO Leslie S. Richards, SEPTA Chief Operating Officer Scott Sauer and their staff regarding 76 Place;

4. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and Sam Rhoads and PIDC staff regarding 76 Place;

5. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and Sam Rhoads and PIDC staff regarding requests for proposals to independently evaluate 76 Place proposal;

6. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Katelyn Csatari about meetings with representatives of CBL Real Estate LLC, including Edward Hazzouri and Hadji Maloumian regarding 76 Place;

7. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from December 1, 2022 to August 16, 2023 between Katelyn Csatari about meetings with representatives of Wojdak Government Relations, including Tabb Bishop; and

8. Records, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates from April 1, 2022 to August 16, 2023 between Katelyn Csatari and Hercules Grigos or Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place.

On August 24, 2023, the Water Department invoked a thirty-day extension to respond to the Seventeenth Request. *Id.*

On August 29, 2023, the Requester submitted a Request to the City Police Department (“Police Department”), seeking:

**Eighteenth Request (24105)**

1. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to
August 16, 2023 regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 Place;

2. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Maureen Rush and Police Commissioner Danielle M. Outlaw regarding 76 Place;

3. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Maureen Rush and First Deputy Commissioner Field Operations John M. Stanford Jr. regarding 76 Place;

4. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Maureen Rush and Chief Strategy Officer Blake Norton regarding 76 Place;

5. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Maureen Rush and Deputy Commissioner Patrol Operations James J. Kelly III regarding 76 Place;

6. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and David Adelman, chairman of 76 Devcorp, regarding 76 Place;

7. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and the Mayor’s Office regarding 76 Place;
8. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and Councilmember Mark Squilla and his staff regarding 76 Place; 

9. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and representatives of Harris Blitzer Sports & Entertainment, including Sherveen Baftechi, Nicole Ellis, Jonathan Fascitelli, David Gould, Jessica Granger, Alex Kafenbaum and Jim Leonard regarding 76 Place; 

10. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and representatives of CBL Real Estate LLC, including Tabb Bishop, Edward Hazzouri and Hadji Maloumian regarding 76 Place; and 

11. Records, including but not limited to, emails, letters, reports, studies, security assessments, disaster and emergency response plans, and cost estimates for increased police presence and increased CCTV cameras from April 1, 2022 to August 16, 2023 between Commissioner Outlaw and other employees of the Philadelphia Police Department and Hercules Grigos and Katherine Missimer of Klehr Harrison Harvey Branzburg LLP regarding 76 Place.

On August 31, 2023, the City denied the Requests, arguing that they are not sufficiently specific to enable the City to respond. See 65 P.S. § 67.703. Additionally, the City argues that the Requests are duplicative and unreasonably burdensome; therefore, the City denied the Requests as disruptive pursuant to Section 506(a)(1) of the RTKL. 65 P.S. § 67.506(a)(1). Finally, the City lists “exemptions and privileges likely to apply to some or all of the records potentially implicated by these [R]equests[,]” including the attorney-client privilege, attorney-work product doctrine, Sections 708(b)(1)(ii) (personal security exemption, 708(b)(2) (public safety), 708(b)(3) (building and infrastructure security), 708(b)(9) (draft documents), 708(b)(10) (internal, predecisional
deliberations), 708(b)(11) (confidential proprietary information and trade secrets), and 708(b)(12) (notes and working papers) of the RTKL. See 65 P.S. §§ 67.708(b)(1)(ii)-(b)(3), (b)(9)-(b)(12).

On September 18, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the City to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On October 27, 2023, the City submitted a position statement, reiterating its grounds for denial, as well as an affidavit, made subject to the penalties set forth in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) from Feige Grundman, Esq., Chief Deputy City Solicitor for the Law Department’s Right to Know Unit and the Open Records Officer for the Law Department (“Grundman Affidavit”). The City also notified relevant third parties of the appeal. As a result, Jonathan Fascitelli, Chief Executive Officer of CBL Real Estate LLC, d/b/a 76DevCo (“76DevCo”), provided a declaration, made subject to the penalty of perjury, arguing that the broad nature of the Requests may include confidential proprietary information of 76DevCo. No other third parties sought to participate in the appeal or provided evidence to the OOR.

The Requester also submitted a position statement and exhibits on October 27, 2023, explaining the Requester’s reasons for filing the Requests and arguing that the records should be open to public inspection.

**LEGAL ANALYSIS**

The City is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other

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2 The Requester granted the OOR a 90-day extension to issue a final determination. See 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).
law or protected by a privilege, judicial order or decree. See 65 P.S. § 67.305. As an agency subject to the RTKL, the City is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder . . . to find that the existence of a contested fact is more probable than its nonexistence.” Pa. State Troopers Ass’n v. Scolforo, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd., 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

1. The City has not proven that the Requests are disruptive.

The City denied the Requests under Section 506(a) of the RTKL, 65 P.S. § 67.506(a), arguing that the RTKL “does not permit individuals to file multiple repetitive and overlapping requests that create an unreasonable administrative burden.” The City states that the Requests at issue “total eighteen requests that this [R]equester has sent to various City departments . . . for all ‘records’ ‘including but not limited to written and email communications’ naming the same departments and agencies and requesting the same communications about or regarding certain topics regarding 76 Place.” The City further notes that the Requests “are so repetitive that the [City’s] case management software cannot be used to do administrative intake of the [R]equests . . . .”

O.O.R.D. LEXIS 318 (“Slight differences in phraseology do not preclude application of [Section 506(a)]

The Grundman Affidavit affirms, in relevant part, as follows:

On [their] own, the [R]equests at issue in this appeal [are] not specific enough to process, burdensome, and extremely large in scope. Taken as a whole, the [R]equests from this [R]equester are burdensome, repetitive, and have caused a tremendous amount of administrative time to process thus far.

I act as the administrator for the case management system used by the City to track RTKL requests. Because of the overlapping broad subject matter and repetitive nature of the requests, the case management system’s artificial intelligence will no longer recognize requests from these individuals as separate requests and will try to attach new requests to existing ones. This means we cannot use the case management system’s artificial intelligence to intake new requests, and each of must be manually entered by hand—that in and of itself has taken several hours of time on administrative tasks before we can begin a full analysis of what records may be implicated.

The City … functionally operates as a single agency made up of more than 25 departments, commissions, boards, and offices.

Grundman Affidavit, ¶¶ 25-27.

In *Mezzacappa v. West Easton Borough*, the OOR held that a request must be repeated more than once to constitute a “repeated request” for purposes of 65 P.S. § 67.506(a). OOR Dkt. AP 2012-0992, 2012 PA O.O.R.D. LEXIS 967 (“Because the [b]orough has only established that the [r]equester has made one repeated request, rather than multiple ‘repeated requests,’ the OOR finds that the [r]equest was not disruptive”). The OOR’s final order in *Mezzacappa* was subsequently upheld by both the Northampton County Court of Common Pleas and the Commonwealth Court. *See Borough of West Easton v. Mezzacappa*, No. C-48-CV-2012-7973

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Here, the City has failed to show that the Requests are repetitive, as each has variations in the records sought, the individuals from which records are sought and, in many cases, were submitted to separate departments and offices within the City. The fact that parts of the Requests are styled similarly does not, in and of itself, make the Requests repetitive. While “[s]light differences in phraseology” do not preclude application of Section 506(a)(1) of the RTKL, the evidence must still show that the request at issue is repetitive. *Mezzacappa, supra.* Furthermore, the City’s suggestion that it operates “as a single agency” for purposes of the RTKL is undermined by its own Open Records Policy, which identifies an “Open Records Officer specific to each City Agency” and notes that a records request must be, among other things, “[d]irected to the appropriate Open Records Officer” to “qualify as written request under the [RTKL] and the City of Philadelphia Open Records Policy….“⁴ Accordingly, the City has failed to demonstrate that the Requests are repetitive and, therefore, disruptive under Section 506(a) of the RTKL. *Cf. Carmencita Maria Pedro and Kerry L. Fisher, Jr. v. City of Phila., Dep’t of Behavioral Health and Intellectual Disability Svcs., OOR Dkt. AP 2023-1889, 2023 PA O.O.R.D. LEXIS 2185* (concluding that requests which are “duplication in whole or in part of one or more RTKL requests” are repetitive and burdensome under Section 506(a) of the RTKL).

2. **The Requests are sufficiently specific in part.**

As a preliminary matter, in its position statement, the City asserts that the Requests “should not be altered on appeal.” More specifically, the City argues that “[c]utting off one subpart from another or cutting off the named individuals from the unnamed individuals would be altering the

⁴ See [https://www.phila.gov/open-records-policy/](https://www.phila.gov/open-records-policy/)
"[R]equest[s] on appeal[,]” which the City suggests would be an inappropriate modification of the Requests. However, this is precisely what the City and its Open Records Officers are called to do. “[T]he specificity of a request must be construed in the request’s context, rather than envisioning everything the request might conceivably encompass.” Montgomery County v. Iverson, 50 A.3d 281, 284 (Pa. Commw. Ct. 2012). While the context of the Requests, as a whole, may instruct the specificity analysis, each part of the Requests must be considered independently to determine whether the City can reasonably ascertain what records have been requested therein. See Pennsylvania State Police v. Office of Open Records, 995 A.2d 515 (Pa. Commw. Ct. 2010) (concluding that the part of a request seeking “any and all records, files, or communications of any kind,” was not sufficiently specific, but that the part of the request seeking “manual(s)” was specific because it enabled the agency to ascertain what records the requester was seeking). Accordingly, the OOR will separately analyze each subpart of the Requests, as well as the content of each subpart, to determine whether any part of the Requests meets the specificity test set forth below.

of the Requests seeks communications for a period of twelve (12) to nineteen (19) months and implicates anywhere from hundreds to thousands of City employees depending upon the specified department/office. The City further argues that “[t]he subject matter of the communications sought by the [R]equester is as vague as possible concerning this subject matter[,] the [R]equester is generally seeking any communication … about 76 Place in any way.”

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” Id. at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type … or by recipient.’” Id. (quoting Carey v. Pa. Dep’t of Corr., 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” Id. at 1126 (citing Carey, supra). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” Id.

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested…. The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” Pa. Dep’t of Health v. Shepherd, 2022 Pa. Commw. Unpub. LEXIS 207, *6-7. Finally, as noted above, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently
specific, while other portions provide sufficient guidance. See Pa. State Police, 995 A.2d at 517 (noting “the valid part of the request was included in a laundry list of requested materials”).

In support of the City’s argument that the Requests are insufficiently specific, the Grundman Affidavit affirms as follows:

As of the date of this attestation, I have coordinated more than 75 email searches for RTKL requests through the Office of Innovation Technology (OIT) in 2023 alone. I have been coordinating Citywide email searches for all RTKL requests since 2019. I therefore have many years of experience with OIT searches and the results of those searches, and I am familiar with both the capabilities and limitations of those searches.

When OIT runs email searches of employees’ accounts based on instructions from the Law Department, they create a custom code based on each of the search criteria identified as far as keywords, time period, and specific user accounts.

The requests do not limit itself to seeking email communications. Each of the 27 subparts of the request specifically states that it seeks “records, including but not limited to written or email communication.” This makes it unclear what records the requester is seeking.

The requester does not identify specific City transactions but instead asks for all communications and other records, concerning or about various topics, that were possibly discussed between thousands of individuals, from multiple government agencies, multiple City agencies and offices, and at least one private practice law firm, and multiple private institutions.

I interpreted the phrase “Records including, but not limited to written or email communications” as it is written, which is to encompass emails as well as every other possible medium of record.

For the timeframes requested, the Department of Planning and Development had at least 123 employees and City Planning Commission had at least 42 employees. The Mayor’s Office had at least 60 employees during the requested time periods the Law Department had at least 345 employees during the requested time period. All of the City Council offices implicated had at least 8 employees during the requested time period. Both The Streets Department and Managing Director’s Office had at least 2,000 employees, and the Philadelphia Police Department had about 6,800 employees.

The request also seeks communications between the City and other state agencies such as the Southeastern Pennsylvania Transit Authority (SEPTA), the Pennsylvania Department of Transportation (PennDOT), Philadelphia Industrial Development Corporation (PIDC). Based on online sources from each respective
non-City agency, PIDC has approximately 213 employees, SEPTA has approximately 9,500 current employees, and PennDOT has approximately 12,000 employees. The City does not have internal access to employee counts, most of the email addresses, or the names of these employees.

Based on publicly available information from ZoomInfo.com, Langan Engineering has 1,300 employees, Klehr Harrison Harvey Branzburg has 123 employees Harris Blitzer Sports Entertainment has 106 employees and CBL Real Estate has 472 employees. The City does not have the email addresses of most of these employees.

The request on its face seeks all “[r]ecords, including but not limited to, written or email communications” between City employees and tens of thousands of individuals, including City and non-City agency employees; and employees of private companies. The first 23 subparts of the request seek 17 months of such communications, the last 5 subparts seek 5 months of such communications.

Unlike most of the thousands of RTKL requests received by the City each year, this request isn’t seeking records of specific agency actions, transactions, or decisions, but a broad range of communications and any other type of record between about thousands of City employees and thousands of individuals.

The above-captioned appeals underlying requests has a total of 214 sub-parts. For the City to comply with even 1 of these 214 subparts would be burdensome for the City.

This is based on the long time periods, the potentially tens of thousands of accounts implicated, the request for email and unspecified types of records, and lack of specified City transactions identified.

Assuming that a custom code could be created for even one of these 214 subparts, then each email record would have to be reviewed for both responsiveness and exemptions/privileges. There are many potential exemptions that would apply partially or wholly to the records that would result from the requested email searches.

Based on my extensive experience with email reviews as well as responding to thousands of RTKL requests as well as my understanding of and participation in email regarding City activities, many exemptions would apply to the requested communications, such as attorney-client privilege—as the request seeks (among other things) communications between City employees and attorneys of the Law Department, for example Francis Beckley, Brendan O’Rourke, and Andrew Richman. I can confirm that City employees sought and obtained legal advice from Francis Beckley, Brendan O’Rourke, and Andrew Richman the Law Department during the time periods implicated in this request, thus attorney-client privileged communications are implicated in this request.
The request also likely implicates internal pre-decisional deliberations, as the request specifically calls for communications between City of Philadelphia departments, and between the City and other state agencies, such as SEPTA and PennDOT.

These are only some examples of exemptions and privileges that would apply to the records sought, as it’s impossible to predict all the exemptions before reviewing the communications, as each communication needs to be assessed on a document-by-document basis.

In practice, an OIT search for the requested email records would need to be run across City employee accounts, with search terms, but without any accounts on the other side of the communication, unless the people on the other side of the communication are City employees, to limit the results. The City does not have a list of all the email addresses—or even names—to limit the search to between City employees and the thousands of non-City individuals implicated. Even if the City did have the email addresses of all of the above-implicated individuals, an OIT search would not compile with thousands of individuals on the other side of the communication from the City.

Even if the communication were limited to between City and other City employees, the requested searches would also be too large to compile in OIT’s system.

On its own, the requests at issue in this appeal is not specific enough to process, burdensome, and extremely large in scope. Taken as a whole, the requests from this requester are burdensome, repetitive, and have caused a tremendous amount of administrative time to process thus far.

I also act as the administrator for the case management system used by the City to track RTKL requests. Because of the overlapping broad subject matter and repetitive nature of the requests, the case management system’s artificial intelligence will no longer recognize requests from these individuals as separate requests and will try to attach new requests to existing ones. This means that we cannot use the case management system’s artificial intelligence to intake new requests, and each one must be manually entered by hand—that in and of itself has taken several hours of time on administrative tasks before we can begin a full analysis of what records may be implicated.

The City of Philadelphia functionally operates as a single agency made up of more than 25 departments, commissions, boards, and offices.
The City’s Office of Information and Technology (OIT) coordinates technology and IT across all of the City departments, commissions, boards, and offices. OIT must run searches for email records on behalf of the City’s departments, commissions, boards, and offices citywide, including email of the Philadelphia Planning Commission, the Mayor’s Office, the City Council, the Department of Planning and Development.

The City’s Law Department represents City departments, commissions, boards, and offices implicated in this appeal, including the City Planning Commission, the Department of Planning and Development, the Mayor’s Office, City Council, among many others. These departments and offices don’t have the legal expertise to evaluate whether a RTKL request for email records and other records is insufficiently specific or not. Nor do they have the legal expertise to review every communication that may come up in such a broad request for the various exemptions to disclosure, whether they be disclosures that are part of the RTKL statute or other state or federal laws. The Law Department has to take the lead role in all of Ms. Anderson’s requests regarding 76Place.

Although every subpart of the request relates to 76 Place, they are not all the same, nor do they relate to any discrete transaction or activity of the proposed project other than somehow relating to 76 Place. Therefore, to process the request would require different search terms to be used and different judgments to be made as to whether records are responsive to each and every subpart of this (and the more than 20 other) request(s). For example, regarding receipt #23620 alone:

a. Item 1 is regarding the proposal to build a sports arena at 1000 block of Market Street (76 Place);

b. Item 2 is regarding meetings about 76 Place;

c. Item 9 is regarding “Philadelphia Weekly Connect” meetings about 76 Place;

d. Item 14 is “regarding requests for proposals to independently evaluate 76 Place proposal”

e. Item 27 is regarding members of advisory committee created to review and evaluate the responses to independently evaluate 76 Place proposal

Every single subpart of every single portion of every single one of the more than 20 request that Ms. Anderson has made on this topic specifically states that she seeks not only the records in each subpart, but all “records, including but not limited to” those that are listed. On their face, the requests seek every possible record of every type from not only the City but also private institutions and private law firms for extended time periods that in any way relate to an unfinished project proposal for a privately constructed and privately funded arena.
a) Requests to City Council (First through Eighth Requests)

The Requester submitted eight Requests to the City Council, the majority of which contained identical language, except for the inclusion of a different Councilmember in each part of the Requests. The outlier, which is identified as the First Request above, sought the records of Councilmember Mark Squilla. The First Request contains two timeframes, April 1, 2022 through July 21, 2023 (Parts 1-8 and 16-18) and March 1, 2023 through July 21, 2023 (Parts 9-12). The scope of each part of the First Request is broad—“[r]ecords, including but not limited to, written or email communications”—and, except for identifying emails as responsive records, does little to identify the types of records sought. Finally, the subject matter of each part of the Request varies, from more defined (i.e., “regarding meetings about 76 Place” and “regarding appointments to advisory committee created to review and evaluate the responses for proposals to independently evaluate 76 Place proposal”) to general (i.e., “regarding the proposal to build a sports arena on the 1000 block of Market Street, hereinafter 76 place” and “regarding” or “about” 76 Place). However, each part of the First Request identifies at least two senders and/or recipients between which the requested records were exchanged (i.e., Councilmember Mark Squilla, David Adelman, Chairman of 76 Devcorp, etc.), thereby limiting the universe of potentially responsive records. See Pa. Dep’t of Educ., 199 A.3d at 1124-126 (“A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients”); see also Carey, 61 A.3d at 372 (concluding that the scope of the request must identify “a discrete group of documents, either by type … or by recipient”).

Based upon the foregoing and when applying the three-factor test set forth *Pa. Dep’t of Education*, the First Request, insofar as it seeks written and email communications exchanged between Councilmember Mark Squilla and other named individuals, it is sufficiently specific. However, to the extent the First Request seeks other records or those from unnamed individuals, such as Councilmember Squilla’s staff or representatives/staff members of agencies/organizations like the Southeastern Pennsylvania Transportation Authority (“SEPTA”), the Philadelphia Industrial Development Corporation (“PIDC”), the Pennsylvania Department of Transportation (“PennDOT”) and private business entities, the First Request is insufficiently specific.

Similarly, the Second through Eighth Requests filed with the City Council seek the same discrete types of records and contain the same subject matters (i.e., “regarding 76 Place” and “regarding meetings about 76 Place”) as the First Request\(^6\) but include a timeframe of December 1, 2022 through July 21, 2023. In each of these Requests, a different councilmember and his or her staff is identified, and the senders/recipients of the records are limited to David Adelman, Chairman of 76DevCorp, and representatives of CBL Real Estate LLC, Harris Blitzer Sports & Entertainment, or Wojdak Government Relations, some of whom are named in the Requests. Therefore, like the First Request above, the Second through Eighth Requests are sufficiently specific insofar as they seek written and email communications between the identified Councilmember and other named individuals; they are not sufficiently specific to the extent they seek records other than email and written communications or those exchanged with unnamed individuals from the private business entities referenced above.

\(^6\) In Item 4 of the Sixth through Eighth Requests, the Requester omitted the phrase “regarding 76 Place”; however, given the context of the remainder of the Requests, it is reasonable to presume these Items sought records regarding 76 Place. Additionally, as noted above, the failure to include a subject matter is not necessarily fatal to a RTKL request, particularly when the request identifies the senders and/or recipients of the records.
b) Requests to the Managing Director’s Office (Ninth and Tenth Requests)

The Requester submitted two Requests to the Managing Director’s Office. The parts of the Ninth Request are substantially similar to those in the First Request; however, they seek records exchanged between the Managing Director, Tumar Alexander, and his staff rather than Councilmember Squilla and his staff. Additionally, absent from the Ninth Request is any reference to PennDOT or Langan Engineering and Environmental Services, Inc. (“Langan”). Given the similarities between the First and Ninth Requests, we hereby incorporate our ruling(s) from Subsection a) above, as it relates to the First Request, and find that the Ninth Request is likewise partially specific.

With respect to the Tenth Request, each item contains the timeframe of April 1, 2022 through August 16, 2023 and seeks, “[r]ecords, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates” regarding 76 Place. For the reasons set forth above, the portion of the Tenth Request seeking discrete records (i.e., emails, letters, reports, feasibility studies, traffic studies, architectural designs and cost estimates), exchanged between Michael Carroll7 and any named individuals (i.e., David Adelman, Sherveen Baftechi, etc.) is sufficiently specific. However, to the extent the Tenth Request seeks records other than those identified above records exchanged with unnamed representatives or staff members of the relevant agencies or business entities, the Tenth Request is insufficiently specific.

c) Requests to the Law Department (Eleventh and Twelfth Requests)

The Eleventh Request seeks, “[r]ecords, including but not limited to, written or email communications” for two separate timeframes: April 1, 2022 through July 21, 2023 (Items 1-11) and March 1, 2023 through July 21, 2023 (Items 12-14). Each Item of the Eleventh Request seeks

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7 Michael Carroll is the City’s Deputy Managing Director for Transportation, Infrastructure, and Sustainability. See https://www.phila.gov/departments/managing-directors-office/.
records exchanged between Frances Beckley and Andrew Richman as well as named and unnamed individuals from a variety of government agencies and private business entities. The subject matter included for each part of the Eleventh Request, but for Item 11 which also references “Philadelphia Weekly Connect meetings,” mirror those in many of the Requests analyzed above (i.e., regarding 76 Place and the naming of advisory committee members and evaluation of proposals related thereto). Accordingly, the Eleventh Request is specific as to written and email communications exchanged between Frances Beckley, Andrew Richman and any named individuals regarding 76 Place. However, to the extent the Eleventh Request seeks records other than those identified above records exchanged with unnamed representatives or staff members of the relevant agencies or business entities, the Eleventh insufficiently specific. Additionally, Item 3 of the Eleventh Request, which seeks records exchanged between Frances Beckley, Andrew Richman and “the Mayor’s Office” regarding 76 Place is insufficiently specific in its entirety, as the Requester has not provided sufficient detail, in the form of senders/recipients from the Mayor’s Office, to enable the City to adequately respond to this Item. See Carey, supra.

The majority of the Items in the Twelfth Request seek, “[r]ecords, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates” for two separate timeframes: April 1, 2022 through August 16, 2023 (Items 1-11) and March 1, 2023 through August 16, 2023 (Items 12-14). The subject matter of each Item of the Twelfth Request mirrors those previously analyzed above. Additionally, in all but Item 10, the records sought are those exchanged between Brendan O’Rourke and other named individuals and

8 While Item 11 is styled differently than the other Items of the Eleventh Request in that it seems emails and written communications “from or to” Frances Beckley and Andrew Richman and includes additional subject matter language in that it seeks those records “regarding ‘Philadelphia Weekly Connect’ meetings about 76 Place,” the more refined subject matter and limited number of senders/recipients makes the records sought in Item 11 easier to ascertain.

9 Brendan O’Rourke serves as the Chief Deputy City Solicitor within the City’s Real Estate and Development Unit. See https://www.phila.gov/departments/law-department/about/staff/
entities. Therefore, Items 1, 3-9 and 12-14 of the Twelfth Request are sufficiently specific insofar as they seek “emails, letters, reports, feasibility studies, traffic impact studies, architectural studies and cost estimates” exchanged between Brendan O’Rourke and any named individual. However, to the extent the Twelfth Request seeks other types of records or those exchanged with unnamed individuals, the Twelfth Request is not specific. Furthermore, because Item 2 does not identify specific representatives of the Mayor’s Office from which records are sought, Item 2 is not specific. Likewise, Item 10 seeks only “[r]ecords” to or from Brendan O’Rourke from April 1, 2022 through August 16, 2023 and includes the subject matter of “Philadelphia Weekly Connect” meetings regarding 76 Place. Without a defined scope, shorter timeframe or more limited subject matter, Item 10 is not specific.

**d) Request to the Mayor’s Office (Thirteenth Request)**

The Thirteenth Request seeks, “[r]ecords, including but not limited to, written or email communications” between Mayor Jim Kenney and his staff for two separate timeframes: April 1, 2022 through July 21, 2023 (Items 1-8 and 14-19) and March 1, 2023 through July 21, 2023 (Items 9-13). The subject matter of each Item of the Thirteenth Request is similar to those analyzed above, as are the named and unnamed senders and recipients of the records. Accordingly, to the extent the Thirteenth Request seeks written and email communications exchanged between Mayor Kenney and named individuals, the Thirteenth Request is sufficiently specific. Insofar as the Thirteenth Request seeks records other than written and email communications or those exchanged

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10 Along with her appeal documents, the Requester submitted a second RTKL request submitted to the Mayor’s Office of Public Engagement dated July 25, 2023; however, upon further review, the OOR determined that this RTKL request was appealed separately, docketed by the OOR, and disposed of in *Anderson v. Phila. Mayor’s Office*, OOR Dkt. AP 2023-1842, 2023 PA O.O.R.D. LEXIS 2868. Therefore, the OOR does not address this RTKL request in the instant Final Determination.
with unnamed individuals from Mayor Kenney’s staff and the organizations or private business referenced in the Thirteenth Request, the same is not specific.  

**e) Requests to the Departments of Planning and Development, Commerce and Streets (Fourteenth, Fifteenth and Sixteenth Requests)**

Each of these Requests seeks “[r]ecords, including but not limited to, written or email communications” between certain named individuals (e.g., Anne Fadullon, Eleanor Sharpe and John Mondlak; Anne Nadol; Kasim Ali, Michelle Brisbon, Kisha Duckett, Vadim Fleysh, Mark Washington), all of which are current or former employees of the City, for timeframes and using subject matters consistent with the other Requests. Each of the Items of the Fourteenth, Fifteenth and Sixteenth Requests seek records exchanged between the individuals referenced above, one or more representatives of various public agencies and private business entities or the organizations themselves. Therefore, insofar as the Fourteenth, Fifteenth and Sixteenth Requests seeks written and email communication exchanged between the identified employees/officials of the Departments of Planning and Development, Commerce and Streets, and the named representatives of the various organizations, the Requests are sufficiently specific. However, to the extent these Requests seek other types of records or communications exchanged between unnamed individuals of the identified City Departments, organizations or private business entities, the Requests are insufficiently specific.

**f) Request to the Water Department (Seventeenth Request)**

The Seventeenth Request is similar to the Tenth Request in that it seeks “[r]ecords, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates” exchanged between a single individual, Katelyn Csatari,

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11 For example, Items 14 and 15 seek records exchanged between Mayor Kenney and PennDOT and Langan; however, no individuals are named in these Items. Therefore, they are not specific in their entirety.
who is a Water Department employee, and certain named individuals from various organizations and private business entities regarding 76 Place. The Seventeenth Request includes two timeframes during which records are sought: April 1, 2022 to August 16, 2023 (Items 1-5 and 8) and December 1, 2022 to August 16, 2023 (Item 6 and 7). Similar to our findings in the Tenth Request, the portion of the Seventeenth Request seeking discrete records (*i.e.*, emails, letters, reports, feasibility studies, traffic studies, architectural designs and cost estimates), exchanged between Katlyn Csartari and any named individuals is sufficiently specific. However, to the extent the Seventeenth Request seeks records other than those identified above records exchanged with unnamed representatives or staff members of the relevant agencies or business entities, the Tenth Request is insufficiently specific.

**g) Request to the Police Department (Eighteenth Request)**

The Eighteenth Request also seeks “[r]ecords, including but not limited to, emails, letters, reports, feasibility studies, traffic impact studies, architectural designs and cost estimates” but is limited to a single timeframe, April 1, 2022 to August 16, 2023. Additionally, each Item of the Eighteenth Request includes a more defined subject matter—increased police present and increased CCTV cameras regarding 76 Place. While Item 1 does not identify any senders or recipients of the records, Items 2-5 seek records exchanged between Maureen Rush and several identified Department employees, including Police Commissioner Danielle Outlaw, First Deputy Commissioner (Field Operations) John Stanford, Jr., Deputy Commissioner (Patrol Operations), James Kelly, III, and Chief Strategy Officer, Blake Norton. Items 6-11 seek records exchanged between Commissioner Outlaw and her staff and “other employees of the Philadelphia Police Department” and various named individuals and their respective staffs, organizations or business entities. Accordingly, the Eighteenth Request is sufficiently specific insofar as it seeks “emails,
letters, reports, feasibility studies, traffic impact studies, architectural studies and cost estimates” exchanged between Maureen Rush and/or Commissioner Outlaw and any named individual. However, to the extent the Twelfth Request sought other types of records and records exchanged between unnamed members of Commissioner Outlaw’s staff or unnamed individuals of the identified organization and business entities, the Eighteenth Request is not specific.¹²

3. The City may withhold records determined to contain confidential proprietary information or the disclosure of which would reveal trade secrets of 76DevCo.

In its position statement, the City states that “[e]ach email and other communication would need to be reviewed not only for responsiveness but … for various exemptions to disclosure under the RTKL and other state and federal laws.” Specifically, the City argues that the records are likely to be exempt from disclosure under Section 708(b)(10)(i)(A) of the RTKL, as records reflecting internal, predecisional deliberations.¹³ The Grundman Affidavit affirms, in pertinent part, as follows:

Based on my extensive experience with email reviews as well as responding to thousands of RTKL requests as well as my understanding of a participation in email regarding City activities, many exemptions would apply to the requested communications, such as attorney-client privilege—as the request seeks (among other things) communications between City employees and attorneys of the Law Department, for example Francis Beckley, Brendan O’Rourke, and Andrew Richman. I can confirm that City employees sought and obtained legal advice from Francis Beckley, Brendan O’Rourke, and Andrew Richman [of] the Law Department during the time periods implicated in this request, thus attorney-client privileged communications are implicated in this request.

The request also likely implicates internal pre-decisional deliberations, as the request specifically calls for communications between City of Philadelphia departments, and between the City and other state agencies, such as SEPTA and PennDOT.

¹² Notably, because Item 1 of the Eighteenth Request does not identify any sender or recipient of records and would, by virtue of its broad scope, seek records sent to or received by every employee of the Police Department, Item 1 is insufficiently specific in its entirety.
¹³ Interestingly, the City limits its argument to “email and other communication[s]” and does not address other types of records which may be responsive to the Requests.
Grundman Affidavit, ¶¶ 15-16.

The City’s evidence regarding the potential application of exemptions or privilege to the records is limited to the argument and two paragraphs of the Grundman Affidavit above recited above, all of which fail to contain any factual support for the exemptions asserted. If the presence of exempt information is undisputed by the parties, an affidavit may be unnecessary, see Office of the Governor v. Davis, 122 A.3d 1185, 1194 (Pa. Commw. Ct. 2015) (en banc) (holding that an affidavit may be unnecessary when an exemption is clear from the face of the record); however, conclusory statements are insufficient to meet an agency’s burden of proof under the RTKL. See Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (en banc) (“[A] generic determination or conclusory statements are not sufficient to justify the exemption of public records.”); see also Office of the Dist. Atty. of Phila. v. Bagwell, 155 A.3d 1119, 1130 (Pa. Commw. Ct. 2017) (“Relevant and credible testimonial affidavits may provide sufficient evidence in support of a claimed exemption; however, conclusory affidavits, standing alone, will not satisfy the burden of proof an agency must sustain to show that a requester may be denied access to records under the RTKL”). The City has, therefore, failed to prove any privilege or any RTKL exemptions would apply to the responsive records.

Moreover, in Pa. Dep’t of Educ. v. Bagwell, the Commonwealth Court explained:

[I]t is well-established that:

[A]n agency must raise all its challenges before the fact-finder closes the record. This will allow efficient receipt of evidence from which facts may be found to resolve the challenges. In the ordinary course of RTKL proceedings, this will occur at the appeals officer stage, and a reviewing court will defer to the findings of the appeals officer.

In addition, there is no statutory authority for a two-step process. This Court recently rejected an agency's challenge to OOR's refusal to bifurcate proceedings to resolve an issue of insufficient specificity separate from the merits. We rejected bifurcation as infeasible given the timelines under the RTKL. This Court also
reasoned an agency had ample opportunity to present evidence of substantive exemptions at the appeals officer level. When the agency did not submit evidence of exemptions, and rested on its specificity argument, this Court precluded the agency from submitting evidence of any exemptions on remand.

131 A.3d 638, 660 (Pa. Commw. Ct. 2016); see also Pa. Dep’t of Conserv. & Nat. Res. v. Vitali, No. 1013 C.D. 2014, 2015 Pa. Commw. Unpub. LEXIS 479 (Pa. Commw. Ct. 2015). Although the City asserts that the responsive records may contain information protected by the attorney-client privilege, Section 708(b)(10) of the RTKL and other unidentified exemptions, like the agency in Bagwell, the City has failed to submit non-conclusory evidence in support of these arguments. Instead, the City largely relies upon its claim that the Requests are insufficiently specific and attempts to reserve its right to review the records for exemptions if the Requests are found to be specific under Section 703. Because there is no statutory mechanism enabling the OOR to bifurcate an appeal, the City was required to raise its arguments and support them with evidence in the normal course of the appeal. See Roddy v. Pa. Office of the Governor, 561 M.D. 2020, 2020 Pa. Commw. Unpub. LEXIS ___ (Pa. Commw. Ct. 2020) (finding that the agency could not raise additional grounds for withholding records after relying about its specificity argument before the OOR). Therefore, the City has failed to meet its burden of proving that any of the exemptions or privileges set forth in its response to the Requests, except for Section 708(b)(11) of the RTKL which is addressed below, apply to the responsive records. See 65 P.S. § 67.305; 65 P.S. § 67.708(a).

Finally, as explained above, the City notified the relevant third parties of the instant appeal. While none of the third parties sought to participate as a direct interest participant, 76DevCo provided the City with the Fascitelli Declaration, which affirms as follows:

76DevCo is a development company that plans to develop 76 Place at Market East ("76 Place")—the future home of the Philadelphia 76ers and a state-of-the-art
venue for hosting major concerns and entertainment events. It will be located on a portion of the current site of Fashion District Philadelphia (the “Arena Site”).

76DevCo plans to enter into an agreement that, among other things, facilitates conveyance of the Arena Site to the City of Philadelphia (the “City”) at a nominal cost to the City. 76DevCo’s understanding is that local government ownership of the land underlying arenas and stadiums is consistent with the precedent in Philadelphia, as well as other major cities. 76DevCo will not receive funds from the City to build 76 Place.

76DevCo is engaged in ongoing negotiations and discussions with the City regarding the above-mentioned transaction, including various technical and regulatory matters associated with constructing and operating an arena. The City and the Philadelphia Industrial Development Corporation have retained firms to conduct an independent analysis of the proposed development and to undertake technical studies to ascertain the feasibility and impacts of an arena at the Arena Site.

The scale, strategic planning, and financial realities of constructing a privately funded sports and entertainment area of this size are incredibly complex. 76DevCo has invested (and will continue to invest) significant private resources in planning related to, among other things, architecture, building design, engineering, infrastructure, security, technology, professional services, and marketing.

In connection with these efforts and investments, 76DevCo has developed, used and/or disclosed trade secrets and/or confidential proprietary information to plan for the development of 76 Place (“Highly Confidential and Private Information”). These include, without limitation and for illustration only, nonpublic building designs and plans, proprietary logistics, competitive marketing strategies, private financial plans, and other nonpublic information and data that are critical to the project’s success. 76DevCo’s Highly Confidential and Private Information are commercially valuable to 76DevCo because they are nonpublic.

76DevCo employs strict measures to maintain the confidentiality of its Highly Confidential and Private Information. For example only, it limits circulation of information internally and/or among related affiliates to those with a “need to know” for purposes of the project and designates information as “confidential,” and requires third-party consultants who are privacy to such information to execute non-disclosure agreements.

The City’s evaluation of the above-mentioned transaction, as well as various technical and regulatory matters associated with the project, has required 76DevCo, directly and/or through its agents, to share Highly Confidential and Private Information with a limited group of City officials and employees. 76DevCo communicated this sensitive information to the City with the expectation that it would not be disclosed publicly.
76DevCo understands that the Requester has issued broad Right to Know Law requests to the City that appear designed to capture every communication between 76DevCo (including its agents) and the City, as well as internal communications among City employees regarding the project (the “RTKL Requests”) without regard for sensitive information that may be protected from disclosure. Because many of the RTKL Requests are not specific, they appear to request disclosure of 76DevCo’s trade secrets and/or confidential proprietary information that may be in the City’s possession and other records that are exempt from disclosure.

Providing third-party access to 76DevCo’s Highly Confidential and Private Information would cause material competitive and financial harm to 76DevCo. 76DevCo currently intends to invest at least $1.3 billion in private resources to allow 76 Place to thrive in a highly competitive market of regional and local stadiums, arenas, and entertainment facilities. 76 Place will be a state-of-the-art facility that will enhance consumer choice and experiences, as well as commercial options for vendors and entertainment companies. If owners or operators of competing stadiums, arenas, and facilities, as well as many others in the live sports and entertainment industry, had access to 76DevCo’s Highly confidential and Private Information, they could exploit 76DevCo’s nonpublic work and reap the benefits of 76DevCo’s substantial investments of money and time. They could use 76DevCo’s investments to enhance their own operations, facilities, or know-how—all to their advantage and to 76DevCo’s severe disadvantage.

Fascitelli Declaration, ¶¶ 2-10.

Section 708(b)(11) of the RTKL exempts from disclosure “[a] record that constitutes or reveals a trade secret or confidential proprietary information.” 65 P.S. § 67.708(b)(11). These terms are defined in Section 102 of the RTKL as follows:

“Confidential proprietary information.” Commercial or financial information received by an agency:

(1) which is privileged or confidential; and

(2) the disclosure of which would cause substantial harm to the competitive position of the [entity] that submitted the information.

“Trade secret.” Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

(1) derives independent economic value, actual or potential, from not being generally known to and not being readably ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

65 P.S. § 67.102 (emphasis added).

In determining whether certain information is “confidential,” the OOR considers “the efforts the parties undertook to maintain [the information’s] secrecy.” Commonwealth v. Eiseman, 85 A.3d 1117, 1128 (Pa. Commw. Ct. 2014), rev’d in part, Pa. Dep’t of Pub. Welf. v. Eiseman, 125 A.3d 19 (Pa. 2015). “In determining whether disclosure of confidential information will cause ‘substantial harm to the competitive position’ of the person from whom the information was obtained, an entity needs to show: (1) actual competition in the relevant market; and, (2) a likelihood of substantial competitive injury if the information were released.” Id.

Pennsylvania courts confer “trade secret” status based upon the following factors: (1) the extent to which the information is known outside of the business; (2) the extent to which the information is known by employees and others in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to [the] business and to competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. See, e.g., Crum v. Bridgestone/Firestone N. Amer. Tire, 907 A.2d 578 (Pa. Super. Ct. 2006) (adopting standard from RESTATEMENT (SECOND) OF TORTS § 757 (1965)). To constitute a “trade secret,” the information must be an “actual secret of peculiar importance to the business and constitute competitive value to the owner.” Parsons v. Pa. Higher Educ. Assistance Agency, 910 A.2d 177 (Pa. Commw. Ct. 2006). The most critical criteria are “substantial secrecy and competitive value.” Crum, 907 A.2d at 585.

Notwithstanding the legal factors set forth above, without having located and/or reviewed the records deemed to be responsive to the Requests, neither the City nor Mr. Fascitelli can state
with reasonable certainty that records exchanged with representatives of 76DevCo contain confidential proprietary information or would reveal 76DevCo’s trade secrets if disclosed. However, it is the City’s obligation to conduct a search for records and determine whether exemptions are applicable to the same. See McKelvey v. Pa. Dep’t of Health, 255 A.3d 385, 403-04 (Pa. 2021) (concluding that an agency is not excused from performing its statutory mandate under the RTKL simply because a request implicates a large number of records, nor may an agency shift the burden of determining whether records should be withheld or redacted to third parties) (citing Pa. State Sys. of Higher Educ. v. Ass’n of State College & Univ. Faculties, 142 A.3d 1023, 1027 (Pa. Commw. Ct. 2016). Therefore, because 76DevCo has submitted prima facie evidence that the records could contain information exempt from disclosure under Section 708(b)(11), the City is directed to conduct a search for records responsive to the Requests in accordance with the OOR’s rulings above, and, following its review, if the City determines that records exchanged with representatives of 76DevCo should be withheld under Section 708(b)(11), the City must, within thirty days of this decision, identify and describe the records withheld on an exemption log and provide a copy of the log to the Requester.

CONCLUSION

For the foregoing reasons, the appeal is granted in part and denied in part, and the City is required to conduct a search for responsive records as described above and, except for those records of 76DevCo determined to be exempt under Section 708(b)(11), to provide the records to the Requester within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Court of Common Pleas of Philadelphia. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per 65 P.S. § 67.1303,
but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.\textsuperscript{14} All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: http://openrecords.pa.gov.

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FINAL DETERMINATION ISSUED AND MAILED: 9 January 2024
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\textit{/s/ Joshua T. Young}

\underline{JOSHUA T. YOUNG}
\textbf{SENIOR DEPUTY CHIEF COUNSEL}

Sent via e-file portal to: Faye Anderson; Feige Grundman, Esq., AORO