



FINAL DETERMINATION

IN THE MATTER OF

**IRENE GRIVAS,
Requester**

v.

**CITY OF LANCASTER,
Respondent**

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: **Docket No: AP 2026-3441**
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FACTUAL BACKGROUND

On July 7, 2026, Irene Grivas (“Requester”) submitted a request (“Request”) to the City of Lancaster (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* stating:

This request concerns surveillance camera equipment mounted on or associated with PPL Utility Pole No. 39955 (Identifier S25702), located adjacent to the Pearl Street alley behind 901 Manor Street, Lancaster, Pennsylvania.

This request does not seek explanations, legal opinions, or the creation of records that do not already exist.

This request is separate and distinct from my pending Right-to-Know requests concerning the condemnation of 901 Manor Street. It seeks only identifiable existing agency records relating to the above-described surveillance camera equipment and does not require the City to answer questions or create new records.

Unless otherwise indicated, this request is limited to records created, received, or maintained from January 1, 2021, through the date of this request. Specifically, I request:

1. Any permits, applications, licenses, authorizations, approvals, agreements, memoranda, contracts, or other records relating to the installation, placement, ownership, maintenance, operation, monitoring, investigation, authorization, removal, or disposition of surveillance cameras mounted on or associated

- with PPL Utility Pole No. 39955 (Identifier S25702).
2. Any communications, correspondence, emails (including attachments), text messages, memoranda, reports, notes, or other records between the City of Lancaster and PPL Electric Utilities concerning the above-described surveillance cameras.
 3. Any communications, correspondence, emails (including attachments), text messages, memoranda, reports, notes, or other records between the City of Lancaster and any governmental agency, including the Lancaster City Bureau of Police, contractor, vendor, utility, nonprofit organization, business, or private entity concerning the installation, ownership, operation, monitoring, maintenance, investigation, authorization, removal, or disposition of the surveillance cameras.
 4. Any records identifying the owner, operator, installer, maintainer, monitoring entity, or other person or entity responsible for the surveillance cameras.
 5. Any work orders, inspection reports, installation records, maintenance records, removal records, photographs, videos, field reports, or similar records concerning the surveillance cameras.
 6. Any complaints, reports, investigations, service requests, code enforcement records, internal correspondence, or other records concerning the surveillance cameras, including records relating to whether the cameras were determined to be authorized or unauthorized attachments.
 7. Any records reflecting requests for, receipt of, review of, dissemination of, or access to video footage from the surveillance cameras by or to any City department, bureau, authority, employee, contractor, consultant, or law enforcement agency.
 8. Any memoranda of understanding, agreements, contracts, policies, procedures, protocols, or other records governing the City's ownership, use of, access to, monitoring of, or receipt of footage from the surveillance cameras, if any exist.
 9. Any records created, received, or maintained by the City from January 1, 2021, through the date of this request that reference PPL Utility Pole No. 39955 (Identifier S25702) or the surveillance cameras mounted thereon.
 10. Any records reflecting complaints received by the City concerning the surveillance cameras mounted on or associated with PPL Utility Pole No. 39955, including complaints received from residents, PPL Electric Utilities, governmental agencies, businesses, or other persons.
 11. Any records identifying whether the surveillance cameras are owned, leased, maintained, operated, monitored, utilized, or otherwise accessed by the City of Lancaster or any City department, bureau, authority, employee, contractor, consultant, or agent.
 12. Any records concerning communications, notifications, requests, investigations, coordination, inspections, authorizations, removal, or disposition of the surveillance cameras or associated equipment between the City of Lancaster and PPL Electric Utilities.
 13. Any records identifying the manufacturer, model number, serial number, asset number, inventory number, MAC address, equipment identifier, or other

- identifying information concerning the surveillance cameras or associated equipment, if such information has been obtained or maintained by the City.
14. Any maps, inventories, GIS records, asset inventories, camera inventories, location lists, engineering records, or similar records identifying surveillance cameras located on, associated with, or immediately adjacent to PPL Utility Pole No. 39955 (Identifier S25702), or otherwise identifying the surveillance cameras that are the subject of this request.
 15. Any other existing records reasonably identifying, describing, documenting, referencing, or relating to the surveillance cameras mounted on or associated with PPL Utility Pole No. 39955 (Identifier S25702) that are not otherwise encompassed by Items 1 through 14.
 16. Any incident reports, investigative reports, supplemental reports, memoranda, emails, or other records maintained by the City, including the Lancaster City Bureau of Police, that reference, identify, describe, or concern the surveillance cameras mounted on or associated with PPL Utility Pole No. 39955 (Identifier S25702). . . .

On August 13, 2026, following a thirty-day extension, 65 P.S. § 67.902(b), the City denied the Request, arguing that the Request is insufficiently specific and that records responsive to the Request are exempt from disclosure on the basis of attorney-client privilege, criminal investigative records, noncriminal investigative records, communications between an agency and its insurer, infrastructure security, and the Criminal History Record Information Act. 65 P.S. § 67.703; 65 P.S. §§ 67.708(b)(3), (b)(16), (b)(17), and (b)(27); 18 Pa. C.S. §§ 9101, *et. seq.*

On August 20, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the City’s denial and stating grounds for disclosure.¹ The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 24, 2026, the City requested an extension of time to submit evidence in this appeal, which was granted. On September 11, 2026, the City submitted argument that the Request is insufficiently specific in its entirety, but that the City attempted to conduct a search for

¹ The Requester granted the OOR an 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).”).

responsive records and identified two invoices for surveillance cameras and related equipment and services. The City initially withheld these invoices, but during the course of the appeal, the City released these invoices to the Requester, with certain information redacted.² The City argues that “[t]he invoices contain information about the make, model and other technical information about the cameras and related equipment and the identity of the vendor providing service contracts[.]” and such information is exempt from public disclosure pursuant to the public safety and infrastructure safety exemptions. *See* 65 P.S. §§ 67.708(b)(2), (b)(3). The City also submitted the affidavit of Barry Handwerger, Esq., the Solicitor and Open Records Officer for the City (“Handwerger Affidavit”).

On October 2, 2026, in response to the OOR’s inquiry, the City submitted a supplemental verified position statement and the supplemental affidavit of Barry Handwerger, Esq. (“Supplemental Handwerger Affidavit”). The City also provided a redacted copy of an email, which conveyed information about accessing the live video feed for the City’s surveillance cameras (“Live-feed Access Email”) and states that it withheld an additional email that relates to the placement of the camera (“Camera Location Email”). On September 3 through October 6, 2026, the Requester submitted evidence and argument that the Request is sufficiently specific, that the City failed to conduct a good faith search and that the City failed to sustain its burden that the records responsive to the Request are exempt from public disclosure.

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 law or

² The appeal is moot as to responsive records provided during the course of the appeal. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records, and “the controversy has been mooted”).

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). The preponderance of the evidence standard 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. Portions of the Request are insufficiently specific

Section 703 of the RTKL, provides 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 nonexclusive, multifactor test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015). *See Pa. Off. of the Governor v. Brelje*, 312 A.3d 928 (Pa. Commw. Ct. 2024).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought[,]” and “should provide a context to narrow the search.” *Pittsburgh Post-Gazette*, 119 A.3d at 1125 (quoting 65 P.S. § 67.102; *Montgomery Cnty. v. Iverson*, 50 A.3d 281, 284 (Pa. Commw. Ct. 2012)). 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*, 61 A.3d at 372). “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*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207, *6-7 (Pa. Commw. Ct. May 13, 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022) (citations omitted). Furthermore, 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 v. Off. of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials ...”).

The Request has a timeframe of five and a half years. The subject matter of many portions of the Request is broad, relating to the City’s surveillance cameras in general, whereas certain portions of the Request relate only to one specific surveillance camera. While certain portions of the Request seek very specific types of records such as contracts or City policies relating to surveillance cameras, many portions of the Request broadly seek records or communications of the City for the timeframe relating to the surveillance camera. Further, portions of the Request that have a narrower scope, such as Part 14 seeking maps and GIS records, are worded vaguely such that the City would either not be able to identify the universe of potentially responsive records or would have to individually review all potentially responsive records make judgment calls as to whether such records “identify[] surveillance cameras located on, associated with, or immediately adjacent to” a specific PP&L utility pole. Accordingly, the OOR finds that Parts 3, 6, 7, 9, 14, 15, and 16 of the Request are insufficiently specific.³

³ The Requester is not prohibited from filing a new request that satisfies the requirements of 65 P.S. § 67.703.

2. The City demonstrated that certain records are exempt as noncriminal investigative records

The City argues that the Camera Location Email and the redacted portion of the Live-Feed Access Email are exempt as noncriminal investigative records of the City. Further, Part 10 of the Request seeks “[a]ny records reflecting complaints received by the City concerning the surveillance cameras mounted on or associated with PPL Utility Pole No. 39955, including complaints received from residents, PPL Electric Utilities, governmental agencies, businesses, or other persons.” Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation, including . . . [c]omplaints submitted to an agency[;] [i]nvestigative materials, notes, correspondence and reports[;]” and “[a] record that, if disclosed, would . . . [r]eveal the institution, progress or result of an agency investigation. . . .” 65 P.S. § 67.708(b)(17)(i), (ii), (vi)(A). For this exemption to apply, an agency must demonstrate that an official probe was conducted regarding a noncriminal matter. *Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 811 (Pa. Commw. Ct. 2010). Further, the inquiry, examination or probe must be conducted as “part of the agency’s official duties.” *Id.* at 814. “An official probe only applies to ‘noncriminal investigations conducted by an agency acting within its legislatively granted fact-finding and investigative powers.’” *Pa. Dep’t of Public Welfare v. Chawaga*, 91 A.3d 257, 259 (Pa. Commw. Ct. 2014) (quoting *Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920, 925 (Pa. Commw. Ct. 2012)).

The Supplemental Handwerger Affidavit states, in relevant part:

5. The City received the subject Request on July 7, 2026, seeking records related to a surveillance camera installed near Requester’s property (“Property”).
6. The Property is administratively condemned, and City is responsible for locking and securing the Property.
7. The camera was installed by City to investigate Requester’s own allegations that the Property had been illegally accessed and damaged, including allegations that City damaged the Property.

8. Requester has filed insurance claims against the City claiming City damaged her Property, which claims remain pending.
9. The City's police powers empower City to regulate the public health, safety, and welfare, including enforcing the City's Ordinances and Codes, such as its property maintenance code and building code and permitting requirements. The City also is empowered to investigate and defend itself against private legal claims. . . .
14. In searching for records responsive to the Request, City discovered for the first time that the surveillance camera that is the subject of this Request had been removed.
15. City does not know who removed the camera and has not been able to locate or recover the camera. Any video footage associated with the camera is stored on the device itself, and City has no way to recover or access the footage without physical possession of the camera. . . .
21. In the course of preparing this supplemental submission, two (2) additional records were identified that had not previously been identified as responsive to the Request.
22. Specifically, my office identified an email communication from the City Department of Public Works to the Office of the City Solicitor seeking advice regarding the potential location of the camera before the camera was installed and including a photo of the potential location for the camera ("Camera Location Email"). Based on the advice of Special Counsel, City submits that this email is not subject to production based on attorney/client privilege and/or 65 P.S. § 67.708(b)(2), 65 P.S. § 67.708(b)(3) and/or 65 P.S. § 67.708(b)[(17)].
23. My office identified an additional email communication that provided a link to a live-feed network for City surveillance cameras and that may be responsive to Part 7 of the Request ("Live-feed Access Email").
24. This email was not initially identified as responsive to the Request, in that the email is an invitation to join the City of Lancaster surveillance camera live-feed monitoring platform, and is not specific to the subject camera that limits the entire scope of the Request.
25. Based on the advice of Special Counsel, City is producing the Live-feed Access Email but redacting the information that identifies the host/provider of the video feed pursuant to 65 P.S. § 67.708(b)(2) and/or 65 P.S. § 67.708(b)(3) and redacting the date and recipient pursuant to 65 P.S. § 67.708(b)[(17)].

See Supplemental Handwerger Affidavit ¶¶ 6-9.⁴

⁴ Under the RTKL, an affidavit or statement made under penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the City has acted in bad faith, "the averments in the [affidavits] should be accepted as true." *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d

The City states that the specific surveillance camera that is the subject of the Request was installed to investigate the Requester's allegations of illegal access and damage to a specific property and allegations and insurance claims against the City by the Requester. The City's investigation and any records related to the investigation are sanctioned by the City's police powers to regulate public health, safety, and welfare, and to enforce City Code, including its property maintenance and building code. Thus, records of complaints relating to the camera or which serve as the basis for the placement of the camera on the specified telephone pole would reveal the institution, progress or result of an agency investigation. Based on the evidence submitted, the City has demonstrated that portions of the Request, such as Part 10, seek records that would relate to the City's noncriminal investigation. The City further proved that the Camera Location Email is wholly exempt, and the redaction of the Live-feed Access Email was appropriately redacted on this basis.

3. The City may redact certain information from the invoices on the basis of infrastructure security

Part 13 of the Request seeks “[a]ny records identifying the manufacturer, model number, serial number, asset number, inventory number, MAC address, equipment identifier, or other identifying information concerning the surveillance cameras or associated equipment, if such information has been obtained or maintained by the City.” The City argues that the redacted portions of the invoices and the Live-feed Access Email are exempt from public disclosure under Sections 708(b)(2) and (b)(3). Section 708(b)(2) of the RTKL exempts from disclosure “[a] record maintained by an agency in connection with ... law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity” 65 P.S. § 67.708(b)(2).

374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

To establish the public safety exemption, an agency must show that: (1) the record at issue relates to a law enforcement or public safety activity; and (2) disclosure of the record would be “reasonably likely” to threaten public safety or a public protection activity. *See Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 374-75 (Commw. Ct. 2013). Demonstrating the “reasonably likely” part of the test, as with all of the security-related exceptions, requires the agency to offer more than conclusory statements, speculation or conjecture. *See Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct.. 2010); *Carey*, 61 A.3d at 374-76; *California Borough v. Rothey*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018). To determine the adequacy of an attestation submitted by the agency to support the public safety exemption, courts consider whether the attestation:

- (1) includes detailed information describing the nature of the records sought;
- (2) connects the nature of the various records to the reasonable likelihood that disclosing them would threaten public safety in the manner described; such that,
- (3) disclosure would impair [the agency’s] ability to perform its public safety functions [in relation to what the agency claims to be] the alleged threatening consequence.

Carey, *supra*, 61 A.3d at 376.

In addition to the foregoing, Section 708(b)(3) of the RTKL exempts “[a] record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system” 65 P.S. § 67.708(b)(3). Similar to the public safety exemption, the “reasonable likelihood” test set forth in *Carey* applies. *See Rothey*, *supra*, 185 A.3d at 468; *Allegheny Cnty. Dist. Attorney’s Off. v. Wereschagin*, 257 A.3d 1280, 1299 (Pa. Commw. Ct. 2021) (“*Wereschagin*”).

The Handwerger Affidavit states, in relevant part:

. . . The City identified two responsive records consisting of two invoices for surveillance camera/s and related equipment and/or services. Upon advice of the City’s Special Counsel, the invoices were redacted to redact information regarding the make, model, and other technical information about the cameras and related

equipment and/or services based on the public safety exemption (65 P.S. § 67.708(b)(2)) and/or the infrastructure safety exemption (65 P.S. § 67.708(b)(3)) of the RTKL.

See Handwerger Affidavit p. 2. The Supplemental Handwerger Affidavit states:

16. . . . The invoices included information about the specifications of the camera/s, equipment, and related service contracts. The invoices also included the vendor information. The vendor provides to the City and/or facilitates licensing, a data plan, technical support, maintenance, and servicing for the camera/s and equipment.
17. The invoices initially were withheld from production pursuant to the public safety exemption (65 P.S. § 67.708(b)(2)) and/or the infrastructure safety exemption (65 P.S. § 67.708(b)(3)) of the RTKL.
19. On September 11, 2026, as part of City’s Appeal Submission to OOR, City produced the invoices with redactions. Upon advice of the City’s Special Counsel, the invoices were redacted to redact information regarding the make, model, and other technical information about the cameras and related equipment and/or services based on the public safety exemption (65 P.S. § 67.708(b)(2)) and/or the infrastructure safety exemption (65 P.S. § 67.708(b)(3)) of the RTKL. . . .

See Supplemental Handwerger Affidavit ¶¶ 16-19. The Supplemental Handwerger Affidavit further states that information that identifies the host/provider of the video feed was redacted from the Live-feed Access Email. In response to the OOR’s inquiry as to why the City redacted the name and/or contact information of the vendor who submitted the invoice to the City, the City argues that such information was found to exempt from public disclosure under the Commonwealth Court’s opinion in *Wereschagin*, and the same rationale applies in the instant appeal. 257 A.3d 1280 (Pa. Commw. Ct. 2021).

In *Wereschagin*, the Commonwealth Court considered an appeal from the Allegheny County Court of Common Pleas, which relied upon expert testimony to establish that a network of 250 cameras running off a decade-old network of third-party hosts could be targeted by hackers. 257 A.3d at 1298. The Court considered the evidence and endorsed the application of the three-part *Carey* test to that evidence, holding that the testimony provided to the Court of Common Pleas

had established: (1) that the records related to the camera's system's specialized hosting system, technical specifications, and functioning; (2) that revealing the technical host information and camera types could aid hackers in disabling or attacking the system; and (3) that release of the information would impair the network's public safety functions. *Id.* at 1297. The Court specifically distinguished *Wereschagin* from prior cases based on the quality of the evidence submitted, and because the agency had identified a real threat to the functioning of the network and provided evidence that release of records would endanger the network. *Id.* at 1298.

Here, the OOR finds that the City is permitted to redact technical information, including embedded links, relating to the City's security cameras on the basis of infrastructure security, as there is a reasonable likelihood that the disclosure of such information will endanger the infrastructure of the City's surveillance cameras. Notwithstanding, the City's reliance on the rationale of *Wereschagin* is misplaced relating to vendor information because the City did not submit the kind of detailed evidence that led to the court's decision relating to vendor's names and business addresses. Instead, the City's evidence here is conclusory as to how the name and contact information of the third-party vendor or the identity of a provider of a live video feed would present a real threat to infrastructure security in any meaningful way. Thus, the City has failed to sustain its burden of proof in this appeal that the name and contact information of the third-party surveillance camera vendor and the name of the host/provider of the video feed is exempt from public disclosure.

4. The City failed to demonstrate that additional records responsive to the Request do not exist in its possession, custody or control

In response to the OOR's inquiry, the City submitted evidence that it conducted a good faith search for additional records responsive to the Request and that additional records responsive to these portions of the Request do not exist in its possession, custody or control. In response, the

Requester insists that additional records must exist and argues that the City's production is incomplete. The City's Verified Supplemental Position Statement argues that the City possesses no records responsive to Parts 2, 4, 5, 8, 11, and 12 of the Request. *See City Supplemental Verified Position Statement p. 7.* The Supplemental Handwerger Affidavit states, in relevant part:

10. Upon receipt of the [R]equest on July 7, 2026 ("Request"), a thorough examination of files in the possession, custody and control of the [City] was conducted under my direct supervision and control for records responsive to the Request underlying this appeal.
11. Specifically, a full copy of the Request (including Parts 1, 2, 4, 5, 8, 11, and 12) was forwarded to City staff members in the Department of Public Works; the City of Lancaster Bureau of Police; and the Department of Community Planning and Economic Development. These Departments were instructed to search for responsive records within their Departments, including electronically stored records and email accounts. My Office, the Office of the City Solicitor, also searched for responsive records. The above-listed City Departments and my office are the only departments in the City that would be reasonably likely to have records related to procuring, installing, and monitoring the specific surveillance camera that is the subject of the Request.
12. Based on the City's information management systems, it is not possible for a single user to conduct a City-wide search of electronic records, and instead, searches must be conducted by individuals within their respective departments within the information management systems used by those departments.
13. Each of the Departments named in Paragraph 11 responded to the search directive.
14. In searching for records responsive to the Request, City discovered for the first time that the surveillance camera that is the subject of this Request had been removed.
15. City does not know who removed the camera and has not been able to locate or recover the camera. Any video footage associated with the camera is stored on the device itself, and City has no way to recover or access the footage without physical possession of the camera.
16. The only records that were initially identified as responsive to the Request consisted of two (2) invoices for surveillance cameras and related equipment and services dated July 2, 2024, and September 6, 2024. . . .
22. Specifically, my office identified an email communication from the City Department of Public Works to the Office of the City Solicitor seeking advice regarding the potential location of the camera before the camera was installed and including a photo of the potential location for the camera ("Camera Location Email"). . . .

23. My office identified an additional email communication that provided a link to a live-feed network for City surveillance cameras and that may be responsive to Part 7 of the Request (“Live-feed Access Email”).
24. This email was not initially identified as responsive to the Request, in that the email is an invitation to join the City of Lancaster surveillance camera live-feed monitoring platform, and is not specific to the subject camera that limits the entire scope of the Request. In addition, the email does not include any of the identified terms relevant to the Request

See Handwerger Supplemental Affidavit ¶¶ 10-24.

In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. The RTKL does not define the term “good faith effort.” However, the Commonwealth Court has concluded that:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession...When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors...After obtaining potentially responsive records, an agency has the duty to review the record and assess their public nature under... the RTKL.

Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr., 185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020).

In *Pa. Dep’t of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges v. Pa. Dep’t of Health*, which held that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” *Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)); *see also Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely

than not” inquiry).

Here, the City has provided sufficient evidence to demonstrate that a good faith search for records responsive to the Request was conducted in that it provided the Request to the City Departments that are reasonably likely to have records related to procuring, installing, and monitoring the specific surveillance camera that is the subject of the Request. The search conducted produced two invoices and two emails, which the City produced with redaction. Further, as noted in Part 2 of this Final Determination, the City is permitted to withhold records responsive to the portions of the Request that seek noncriminal investigative records of the City. Notwithstanding, Part 1 of the Request plainly seeks contracts and agreements of the City related to the specified surveillance camera, and the City’s evidence references “related service contracts” that are referenced on the responsive invoices, yet the City did not provide any service contracts in response to the Request. Based on the evidence submitted, the OOR finds that such service contracts are public, financial records that may not be withheld entirely, but may only be redacted.⁵ Consistent with the findings in Part 2 and 3 of this Final Determination, the City may redact the technical information of the surveillance camera from the responsive service contracts and any portions of the contract that would reveal the institution, progress, or result of the City’s noncriminal investigation.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part and dismissed as moot in part**, and the City is required to produce: (1) the responsive invoices with the vendor

⁵ The Request seeks contracts and agreements of the City relating to the surveillance camera system. Such records are financial records, as defined under the RTKL. *See* 65 P.S. § 67.102 (defining “financial record” as any account, voucher or contract dealing with the receipt or disbursement of funds by an agency). Section 708(c) states “[t]he exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) or (17)” *See* 65 P.S. § 67.708(c). Accordingly, the City would only be permitted to redact the portions of the responsive contract that are exempt under Sections 708(b)(2), (b)(3), or (b)(17) of the RTKL.

name and contact information unredacted; (2) the Live-feed Access Email with the name of the host/provider unredacted; and (3) the contracts responsive to the Request with redaction consistent with the Final Determination. 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 Lancaster County Court of Common Pleas. 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 Section 1303 of the RTKL. 65 P.S. § 67.1303. However, 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.⁶ 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>.

FINAL DETERMINATION ISSUED AND MAILED: October 20, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via portal to: Irene Grivas
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Sheila O'Rourke, Esq.

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).