



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 19, 2016

Ms. Jo Ann Pate  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2016-23453

Dear Ms. Pate:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 631035 (PIR No. W053972).

The City of Fort Worth (the "city") received a request for information pertaining to a specified request for proposals. The city states it released some information. You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. Further, you state release of some of the submitted information may implicate the proprietary interests of AECOM Technical Services, Inc. ("AECOM"); APEX GEOSCIENCE; ECS Texas, LLP; Enercon Services, Inc. ("Enercon"); Kleinfelder, Inc.; Leggette, Brashers & Graham, Inc. ("LBG"); Modern Geosciences; Terracon Consultants, Inc.; TRC; The Vertex Companies, Inc. ("Vertex"); W&M Environmental Group, LLC ("W&M"); and Weston Solutions, Inc. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments on behalf of AECOM, Enercon, LBG, Vertex, and W&M. We have

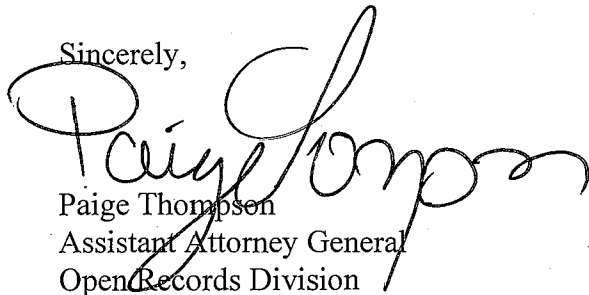
considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov’t Code § 552.104(a). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You represent the information at issue pertains to a competitive bidding situation. In addition, you state releasing the information at issue before a final contract is executed would substantially harm the city’s negotiating position. After review of the information you marked and consideration of the arguments, we find the city has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the information it marked in Exhibit C-1 and Exhibit C-2 in its entirety under section 552.104(a).<sup>2</sup> As the city raises no other exceptions to disclosure for the remaining information in Exhibit C-1, the city must release this information.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson  
Assistant Attorney General  
Open Records Division

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

<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 631035

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

12 Third Parties  
(w/o enclosures)