



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2017

Mr. Ryan D. Pittman
Counsel for the City of Frisco
Abernathy Roeder Boyd Hullett
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069

OR2017-05587

Dear Mr. Pittman:

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# 651157.

The City of Frisco (the "city"), which you represent, received a request for the winning proposal submitted by Madden Media ("Madden") in response to a specified request for proposals issued by the city. Although you take no position with respect to the submitted information, you state release of this information may implicate Madden's proprietary interests. Accordingly, you state, and provide documentation showing, you notified Madden of the request for information and of its right 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 reviewed the submitted information.

Although the city contends the submitted information is excepted under section 552.110 of the Government Code, that exception is designed to protect the interests of third parties, not the interests of a governmental body. *See* Gov't Code § 552.110 (excepting from disclosure "[a] trade secret obtained from a person and privileged or confidential by statute or judicial decision" and "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained"). Thus, we do not address the city's argument under section 552.110. An interested third party is allowed ten business days after

the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why the requested information relating to it should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, Madden has not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding the submitted information consists of Madden's proprietary information. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interests Madden may have in it. The submitted information must be released.

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, 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/nmd

Ref: ID# 651157

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)