



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 4, 2017

Ms. Erin D. Thorn
Assistant District Attorney
County of Hidalgo
100 North Closner, Room 303
Edinburg, Texas 78539

OR2017-06963

Dear Ms. Thorn:

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# 651619 (File Nos. 2017-0009-DA.CO & 2017-0010-DA.CO).

The County of Hidalgo (the "county") received two requests from different requestors for specified information pertaining to the Regional Linear Park project. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Clore Construction, LLC; IOC Company, LLC; Mor-Wil, LLC; OG Construction Company, Inc.; and Texas Cordia Construction, LLC. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information 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 and considered the submitted arguments.

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). The county represents the submitted

information pertains to a competitive bidding situation. In addition, you state, as of the date of the present requests, the procurement at issue was still pending with ongoing negotiations between the county and a bidder, and the contract had not yet been executed. You assert release of the information at issue would provide an advantage to proposers and undermine the contract negotiation process. After review of the information at issue and consideration of the arguments, we find the county has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the county may withhold the submitted information under section 552.104(a) of the Government Code.

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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/sb

Ref: ID# 651619

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

5 Third Parties
(w/o enclosures)