



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2017

Ms. Andrea D. Russell
Counsel for the City of Haltom City
Taylor Olson Adkins Sralla Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2017-28899

Dear Ms. Russell:

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# 688849 (RFI# 1830).

The City of Haltom City (the "city"), which you represent, received a request for the latest contract between the city and Redflex Traffic Systems, Inc. ("Redflex"). You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. Further, you state its release may implicate the proprietary interests of Redflex. Accordingly, you state, and provide documentation showing, you notified Redflex of the request and its right to submit arguments to this office. *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 considered the exception you claim and reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Redflex. Thus, we have no basis to conclude Redflex has a protected proprietary interest in the submitted information. *See id.*

§ 552.110(a)-(b); 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, that 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 any of the submitted information on the basis of any proprietary interest Redflex may have in the information.

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, the following:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of a contract relating to the receipt or expenditure of funds by a governmental body that is subject to section 552.022(a)(3). The city must release this information pursuant to section 552.022(a)(3), unless it is made confidential under the Act or other law. *See id.* Although the city raises section 552.103 of the Government Code for this information, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit*, 4 S.W.3d at 475-76 (governmental body may waive section 552.103); ORDs 665 at 2 n.5 (discretionary exceptions generally), 663 at 5 (waiver of discretionary exceptions). Therefore, the city may not withhold any of the submitted information under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the city must release the submitted 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, 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,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive style with a large, looped "E" and a stylized "K".

Emily Kunst
Assistant Attorney General
Open Records Division

EK/tdw

Ref: ID# 688849

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)