



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2018

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2018-23585

Dear Ms. Sheely:

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# 729583 (ID 610133-1).

The Travis County Healthcare District d/b/a Central Health (the "district") received a request for information pertaining to request for qualifications number 1609-001, Downtown Austin Redevelopment. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.105 of the Government Code. You also state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Brandywine Realty Trust ("Brandywine"); Catellus Development Corporation; Downtown Life Center; Duke Realty; Endeavor Real Estate Group; Lincoln Property Company; PM Realty Group; Portman Holdings ("Portman"); Ryan Companies US; The Howard Hughes Corporation; the Opus Group; and Wexford Science + Technology ("Wexford") 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 received comments from Brandywine and Portman. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

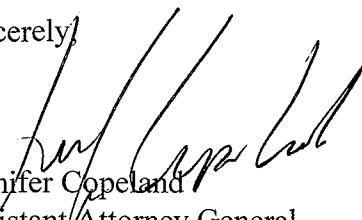
¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested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

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 submitted information pertains to a competitive bidding situation. You state the submitted information relates to an ongoing large-scale real estate transaction and redevelopment project (the “project”). You explain the district was in contract negotiations with Wexford, but the negotiations ceased and did not result in a final contract. However, you assert release of the requested information will jeopardize the district’s bargaining and negotiating position for future requests for proposals related to the project. After review of the information at issue and consideration of the arguments, we find the district has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/gw

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 729583

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 12 Third Parties
(w/o enclosures)