



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2019

Ms. Carolyn Matthis
Assistant City Attorney
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2019-03907

Dear Ms. Matthis:

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# 749908.

The City of Irving (the "city") received a request for a specified incentive package. The city claims the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.131 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of the Greater Irving-Las Colinas Chamber of Commerce and Village Walk Realty, LLC. Accordingly, the city states, and provides documentation showing, it notified each third party of the request for information and of its 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 a representative of the third parties. We have reviewed the submitted information and the submitted arguments.

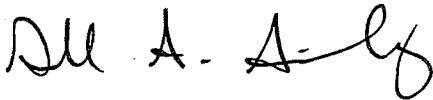
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The city states it has specific marketplace

interests in the submitted information because the city is competing against other entities to attract business prospects for relocation or expansion to the city. In addition, the city states release of the information at issue “would give advantages to other entities” by allowing them to “alter or supplement their proposed incentives based upon the knowledge of what the [city] has previously offered.” After review of the information at issue 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 submitted information under section 552.104(a) of the Government Code.¹

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/mo

Ref: ID# 749908

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.