



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 6, 2019

Mr. Matthew Murray  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2019-06213

Dear Mr. Murray:

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# 753378 (CFW PIR No. W079180).

The City of Fort Worth (the "city") received a request for proposals received in response to a specified request for proposals. You state you released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of ABM Parking Services, Inc. ("ABM"); Premium Parking Services, LLC ("Premium Parking"); SP Plus Corporation ("SP Plus"); and Winpark ("Winpark"). Accordingly, you state, and provide documentation showing, you notified these 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 received comments from ABM and Winpark. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note ABM asserts exceptions to the required public disclosure of information that the city has not submitted for our review. This ruling does not address information beyond what the city has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific

information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the request for information. *See id.*

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 id.* § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Premium Parking or SP Plus. Thus, we have no basis to conclude Premium Parking or SP Plus 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 Premium Parking or SP Plus may have in the information.

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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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." *Id.* at 841. ABM and Winpark state they have competitors. In addition, ABM and Winpark state the information at issue would give advantage to their competitors. After review of the information at issue and consideration of the arguments, we find ABM and Winpark have established the release of the information they seek to withhold would give advantage to a competitor or bidder. Thus, we conclude the city may withhold Winpark's information in its entirety and ABM's information we have indicated under section 552.104(a) of the Government Code.<sup>1</sup>

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>2</sup> *See* Gov't Code § 552.130. Accordingly, the city must withhold the visible license plate we have marked under section 552.130 of the Government Code.

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<sup>1</sup>As our ruling on this information is dispositive, we need not address the remaining arguments against its disclosure.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city may withhold Winpark's information in its entirety and ABM's information we have indicated under section 552.104(a) of the Government Code. The city must withhold the visible license plate we have marked under section 552.130 of the Government Code. The city must release the remaining 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](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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/eb

Ref: ID# 753378

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

4 Third Parties  
(w/o enclosures)