



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 12, 2019

Ms. Stephanie Neal  
Assistant City Attorney  
City of Denton  
215 East McKinney Street  
Denton, Texas 76201-4229

OR2019-09943

Dear Ms. Neal:

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# 759119.

The City of Denton (the "city") received a request for information pertaining to a specified request for proposals. You state the city has released some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.110 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 Change Healthcare Technology a/k/a/ PST Services; Digitech Computer, Inc. ("Digitech"); Emergicon; Intermedix Corporation ("Intermedix"); LifeQuest; and Wittman Enterprises, L.L.C. 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 Digitech. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Digitech argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the city has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body

requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the request for information.<sup>1</sup>

Next, you state some of the information at issue was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2018-27896 (2018). In that ruling, we determined the city (1) must withhold certain information under section 552.110(b) of the Government Code, (2) must withhold insurance policy numbers under 552.136 of the Government Code, and (3) must release the remaining information in accordance with copyright law. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the city must continue to rely on Open Records Letter No. 2018-27896 as a previous determination and withhold or release the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will address the arguments against disclosure of the information not encompassed by the prior ruling.

Section 552.110 of the Government Code protects (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(a)-(b). Although the city argues some of the remaining information is excepted under section 552.110, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's argument under section 552.110. We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the remaining third parties explaining why the remaining information should not be released. Therefore, we have no basis to conclude the remaining third parties have protected proprietary interests in the remaining information. *See id.* § 552.110; 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 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 the remaining information on the basis of any proprietary interest the remaining third parties may have in the remaining information.

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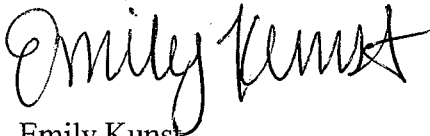
<sup>1</sup>As we are able to make this determination, we need not address Digitech's arguments against disclosure of this information.

In summary, the city must continue to rely on Open Records Letter No. 2018-27896 as a previous determination and withhold or release the information at issue in accordance with that ruling. 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,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/gw

Ref: ID# 759119

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: 6 Third Parties  
(w/o enclosures)