



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2019

Mr. Ryan D. Pittman
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069

OR2019-10050

Dear Mr. Pittman:

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# 759343 (Ref. No. G031649-012319).

The City of Frisco (the "city"), which you represent, received a request for all agreements between the city and specified entities pertaining to a specified city project. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of the following third parties: Blue Star Development; Frisco Community Development Corporation; Frisco Economic Development Corporation; Frisco Silver Star Hotel Corp.; and Winstead PC. Accordingly, you state, and provide documentation showing, you notified these interested third parties of the request and their right to submit arguments to this office. *See* Gov't Code §§ 552.304 (interested party may submit comments stating why information should or should not be released), .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 reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the present request for information because it does not consist of information pertaining to the agreements specified in the request. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

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 be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the interested third parties have a protected proprietary interest in the submitted responsive 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 portion of the submitted responsive information on the basis of any proprietary interest any of the third parties may have in it.

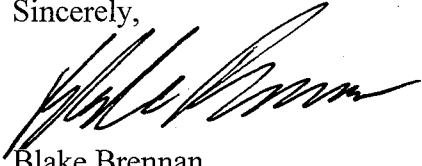
We note some of the submitted responsive information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. The city must release the submitted responsive information; however, any information protected by copyright may only be released in accordance with copyright law.

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, appearing to read 'Blake Brennan', written in a cursive style.

Blake Brennan
Attorney
Open Records Division

BB/gw

Ref: ID# 759343

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 5 Third Parties
(w/o enclosures)