



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 29, 2019

Mr. David F. Brown  
Counsel for the Port of Houston Authority  
Ewell, Brown, Blanke & Knight LLP  
111 Congress Avenue, 28<sup>th</sup> Floor  
Austin, Texas 78701

OR2019-20683

Dear Mr. Brown:

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# 777834.

The Port of Houston Authority (the "authority"), which you represent, received a request for a specified lease agreement. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state you notified Ridge Poh I, LLC 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 considered the exception you claim and reviewed the submitted 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). 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, 841 (Tex. 2015). The authority states it has specific marketplace interests in the information at issue because the authority is competing with other local landowners and other ports for lessees. In addition, the authority states release of the submitted information "would give a potential counterparty an advantage in bargaining

with [the authority] over rents, terms, or conditions of the future lease arrangements.” After review of the information at issue and consideration of the arguments, we find the authority has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the submitted information under section 552.104(a) of the Government Code.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PS/mo

Ref: ID# 777834

Enc. Submitted documents

c: Requestor  
(w/o enclosures)