



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 30, 2019

Ms. Charla Thomas
Assistant City Attorney
City of Temple
2 North Main Street Suite 308
Temple, Texas 76501

OR2019-20924

Dear Ms. Thomas:

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# 777706.

The City of Temple (the "city") received a request for all information relating to a specified proposal number. You state the city takes no position with respect to whether the submitted information is excepted from disclosure; however, you state its release may implicate the interests of a third party. Accordingly, you state, and provide documentation demonstrating, the city notified Vincent Gerard & Associates ("VGA") of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information and the arguments submitted by VGA.

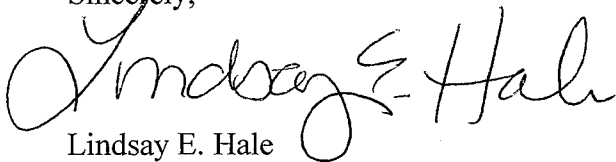
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A

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. VGA asserts release of the submitted information would provide its competitors an unfair advantage. After review of the information at issue and consideration of the arguments, we find VGA 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).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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/gw

Ref: ID# 777706

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address VGA’s remaining argument against disclosure.