



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2019

Mr. Matthew R. Entsminger
Assistant County Attorney
Travis County
P. O. Box 1748
Austin, Texas 78767

OR2019-23031

Dear Mr. Entsminger:

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# 781135 (Ref. No. 710318-1).

The Travis County Planning and Budget Office (the "county") received a request for certain information pertaining to a specified public improvement district.¹ You state the county has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104, 552.105, 552.107, and 552.111 of the Government Code. Additionally, you state release of the information at issue may implicate the interests of Armbrust & Brown, PLLC; Dwyer Realty Companies; Titan Capital Investment Group; and two named individuals. Accordingly, you state, and provide documentation demonstrating, the county notified these interested 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 §§ 552.304 (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*

¹ You state, and provide documentation demonstrating, the county sought and received clarification of the information requested. *See Gov't Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.104(a) of the Government Code exempts 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 (Tex. 2015). You explain the submitted information pertains to ongoing negotiations concerning a financing agreement. You assert release of the information at issue “would jeopardize any ongoing contract negotiations and could potentially provide an advantage to other bidders in the event that [current] contract negotiations were unsuccessful[.]” After review of the information at issue and consideration of the arguments, we find the county has established the release of the information at issue would give advantage to a competitor or bidder. Accordingly, the county may withhold the submitted information under section 552.104 of the Government Code.³

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

² We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 781135

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 5 Third Parties
(w/o enclosures)

