



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 6, 2019

Ms. Brittany Rodriguez  
Office Assistant II  
City of Dallas  
1500 Marilla Street, 3FN  
Dallas, Texas 75201

OR2019-25952A

Dear Ms. Rodriguez:

This office issued Open Records Letter No. 2019-25962, (2019) on September 17, 2019. Since that date, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on September 17, 2019. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act ("Act")). This ruling was assigned ID# 800691 (Ref. Nos. C006008-062719, C006445-071219).

The City of Dallas (the "city") received two requests from different requestors for proposals submitted for a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Ace Parking; Curtis & Cartwright Transport Services, LLC; Freedom Park, LP (Freedom"); LAZ Parking Texas, LLC; Parking Concepts, Inc.; Parking Systems of America; and Robbins Parking Texas, LP, d/b/a Platinum Parking ("Platinum"). Accordingly, you state, and provide documentation showing, you 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 § 552.305(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 Freedom and Platinum. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Freedom objects to disclosure of information the city has not submitted to this office for review. This ruling does not address information that was not submitted

by the city and is limited to the information 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 copy of specific information requested).

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 not be released. *See id.* § 552.305(d)(2)(B). As of the date of this ruling, we have only received comments from Freedom and Platinum. Thus, we have no basis to conclude any of the remaining interested third parties has a protected proprietary interest in the submitted 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 of the submitted information on the basis of any proprietary interest any of the remaining interested third parties may have in the 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). 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. Freedom and Platinum state they have competitors. In addition, Freedom and Platinum state release of their information at issue would cause competitive harm. After review of the information at issue and consideration of the arguments, we find Freedom and Platinum have established the release some of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold Freedom's and Platinum's information in their entireties under section 552.104(a) of the Government Code.<sup>1</sup>

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."<sup>2</sup> Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Thus, the city must withhold the bank account and routing numbers in the remaining information under section 552.136 of the Government Code.

We note some of the remaining information may be subject to copyright law. 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

---

<sup>1</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

<sup>2</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

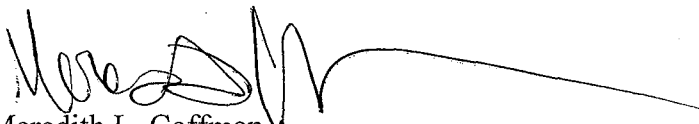
governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the city may withhold Freedom's and Platinum's information in their entireties under section 552.104(a) of the Government Code. The city must withhold the bank account and routing numbers in the remaining information under section 552.136 of the Government Code. The city must release the remaining 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 <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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/eb

Ref: ID# 800691

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

7 Third Parties  
(w/o enclosures)