



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2019

Ms. Itzel Martinez
Counsel for the City of Helotes
Davidson, Troilo, Ream & Garza, P. C.
601 Northwest Loop 410, Suite 100
San Antonio, Texas 78216-5511

OR2019-36167

Dear Ms. Martinez:

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# 803119.

The City of Helotes (the "city"), which you represent, received a request for all information the city has received pertaining to salaries of city employees.¹ You state the city will release some information to the requestor. You claim some of the submitted information is subject to section 552.027 of the Government Code. You also claim some of the submitted information is excepted from disclosure under section 552.106 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.027 of the Government Code provides the Act does not require a governmental body to allow the inspection of information in a commercial publication purchased or acquired by the governmental body for research purposes if the publication is commercially

¹ You state, and provide documentation showing, the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

available to the public. *See* Gov't Code § 552.027(a). You state Exhibits G and H are part of a wage and benefit survey published by Werling Associates, Inc ("Werling"). You also state this information is commercially available on Werling's website. Accordingly, based upon your representations and our review, we conclude Exhibits G and H consist of commercially available information that falls within the scope of section 552.027 of the Government Code, and the city need not release these exhibits to the requestor.

Section 552.106(a) of the Government Code protects a "draft or working paper involved in the preparation of proposed legislation[.]" *Id.* § 552.106. Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 (1987). The purpose of section 552.106 is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body, and therefore, section 552.106 does not except from disclosure purely factual information. *See id.* at 2. However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *See id.* This office has concluded the drafts of municipal ordinances and resolutions which reflect policy judgments, recommendations, and proposals are excepted by section 552.106. Open Records Decision No. 248 (1980).

You state the remaining information consists of "draft proposals comprised of recommended salary amounts." You explain "the [c]ity has not considered or adopted the proposed or recommended grade and step salaries in [the information at issue]." Upon review, we find you have demonstrated the information at issue constitutes policy judgments, recommendations, and proposals regarding proposed legislation related to the city. Accordingly, the city may withhold the remaining information under section 552.106 of the Government Code.

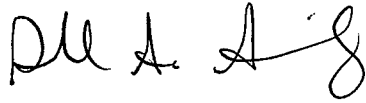
In summary, Exhibits G and H consist of commercially available information that falls within the scope of section 552.027 of the Government Code, and the city need not release these exhibits to the requestor. The city may withhold the remaining information under section 552.106 of the Government Code.

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 <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,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is fluid and cursive, with the first name "Gerald" being the most prominent.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 803119

Enc. Submitted documents

c: Requestor
(w/o enclosures)