



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 28, 2020

Mr. Neal Falgoust
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2020-02495

Dear Mr. Falgoust:

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# 808484 (COA PIR#s C049212 and C049246).

The City of Austin (the "city") received two requests from different requestors for e-mails between named individuals relating to a specified topic. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the city claims and reviewed the submitted representative sample of information.¹

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 (Tex. 2015). The city states it has specific marketplace interests in the information at issue because the city "is in the market to purchase real property for use as a shelter to house individuals experiencing homelessness." In addition, the city states "[t]he information at issue details the [c]ity's strategies for identifying properties that it would consider purchasing and the prices it would pay[,] and that release of the submitted information "would harm the [c]ity's ability to negotiate with potential sellers and to secure a fair price for that property." After review of the

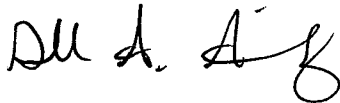
¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

information at issue and consideration of the arguments, we find the city 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) 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,



Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 808484

Enc. Submitted documents

c: Requestor
(w/o enclosures)