



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 11, 2020

Ms. Roxana I. Perez Stevens  
Counsel for the City of Kyle  
The Knight Law Firm, L.L.P.  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

OR2020-23048

Dear Ms. Stevens:

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# 843918 (Ref. No. W007174-062320).

The City of Kyle (the "city"), which you represent, received a request for a copy of a specified contract. The city claims the submitted information is excepted from disclosure under sections 552.110 and 552.1101 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of New World Systems ("New World"). Accordingly, the city states, and provides documentation showing, it notified New World of the request for information and of its 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 considered the exceptions the city claims and reviewed the submitted information.

Section 552.110 of the Government Code protects (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(b)-(c). Although the city argues the submitted information is excepted under section 552.110, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's argument under section 552.110 of the Government Code. Additionally, the city claims the submitted information is subject to section 552.1101 of the Government Code. However, section 552.1101 protects only the

interests of a vendor, contractor, potential vendor, or potential contractor that has provided information to a governmental body, not those of the governmental body itself. *See id.* § 552.1101(c). Therefore, we do not consider the city's argument under section 552.1101 of the Government Code. An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from New World explaining why the submitted information should not be released. Therefore, we have no basis to conclude New World has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest New World may have in the information. The city must release the submitted information.

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,

Alexandra C. Burks  
Attorney  
Open Records Division

ACB/gw

Ref: ID# 843918

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)