



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 27, 2022

Ms. Sarah Parker  
Associate General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR2022-12008

Dear Ms. Parker:

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# 943755 (ORR# R010914-013122).

The Texas Department of Transportation (the "department") received a request for certain plans pertaining to a specified project.<sup>1</sup> Although you raise no exceptions to disclosure for the submitted information, you state, and provide documentation showing, the department has notified Hidalgo County Precinct 2 (the "county") of the request for information and of its right to submit comments to this office stating 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). We have received comments from the county. We have considered the submitted arguments and reviewed the submitted information.

Section 552.105(2) of the Government Code excepts from disclosure information relating to "appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property." *Id.* § 552.105(2). Section 552.105 is designed to protect a governmental body's planning and negotiating position with respect to particular transactions. Open Records Decision Nos. 564 at 2 (1990), 357 (1982), 310 (1982). Information that is excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to

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<sup>1</sup> You state the department 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).

that information is not complete. *See* ORD 310. A governmental body may withhold information that “if released, would impair or tend to impair [its] ‘planning and negotiating position in regard to particular transactions.’” Open Records Decision Nos. 357 at 3, 222 (1979). The question of whether specific information, if publicly released, would impair a governmental body’s planning and negotiating position with regard to particular transactions is a question of fact. Thus, this office will accept a governmental body’s good-faith determination in this regard, unless the contrary is clearly shown as a matter of law. *See* ORD 564.

The county states the submitted information relates to construction plans that have not been finalized. The county explains the submitted plans reveal parcels of land the county intends to purchase for a public purpose and the release of this information would affect the proposed purchase price of these parcels of land. Based upon these representations and our review, we find the county has demonstrated the applicability of section 552.105 to the information at issue. Therefore, the department may withhold the submitted information under section 552.105 of the Government Code on behalf of the county.

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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/mo

Ref: ID# 943755

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosure)