



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 21, 2022

Mr. David T. Ritter
Counsel for the City of McKinney
Brown & Hofmeister, L. L. P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2022-17501

Dear Mr. Ritter:

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# 954495 (City ID No. G22148).

The City of McKinney (the "city"), which you represent, received a request for information related to a specified solicitation.¹ You state you have released some information. 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 Sierra-Cedar, Inc.² Additionally, we understand release of the information at issue may implicate the proprietary interests of Oracle America, Inc. Accordingly, pursuant to section 552.305 of the Government Code, the city was required to notify these third

¹You state 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). You inform us the city sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You also inform us the city received the required deposit on March 25, 2022. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

²We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the interest of a third party can provide a compelling reason to overcome the presumption of openness, we will consider third party interests for the submitted information. *See id.* §§ 552.007, .302, .352; Open Records Decision No. 150 at 2 (1977).

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 reviewed the submitted information.

We note the submitted information was the subject of a previous ruling from this office, in response to which this office issued Open Records Letter No. 2021-10878 (2021). In that ruling, we determined the city must: (1) withhold certain information under section 552.110(b) of the Government Code; and (2) release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the city must continue to rely on Open Records Letter No. 2021-10878 as a previous determination and withhold or release the submitted information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination).

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,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/jxd

Ref: ID# 954495

Enc. Submitted documents

c: Requestor
(w/o enclosures)