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ATTORNEY GENERAL OF TEXAS

November 17, 2022

Ms. Patricia M. Borschow
Assistant General Counsel
El Paso Water Utilities – Public Service Board
P.O. Box 511
El Paso, Texas 79961-0511

OR2022-35908

Dear Ms. Borschow:

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# 984869.

The El Paso Water Utilities – Public Service Board (the “board”) received a request for a specified report and specified standard operating procedures. Although the board takes no position as to whether the submitted information is excepted under the Act, the board states release of the submitted information may implicate the proprietary interests of Arcadis U.S., Inc. (“Arcadis”). Accordingly, the board states, and provides documentation showing, it notified Arcadis 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 received comments from Arcadis. We have reviewed the submitted information and the submitted arguments.

Section 552.110(c) of the Government Code excepts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]”¹ Gov’t Code § 552.110(c). Arcadis argues some of its information consists of commercial or financial information subject to

¹ Although Arcadis cites to section 552.110(b) of the Government Code in its brief, we understand Arcadis to raise section 552.110(c) based on its arguments.

section 552.110(c). Upon review, we find Arcadis has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the board must withhold the information we have marked under section 552.110(c) of the Government Code.²

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 A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 984869

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address Arcadis's remaining arguments against disclosure of this information.