



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2014

Ms. Traci Riggs
Deputy City Secretary
City of Southlake
1400 Main Street, Suite 270
Southlake, Texas 76092

OR2014-01188

Dear Ms. Riggs:

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# 512546.

The City of Southlake (the "city") received a request for construction documents for a specific project. You state you have released some of the information. Although you take no position with respect to the remaining requested information, you state its release may implicate the proprietary interests of James Harwick+Partners, Inc. ("Harwick"). Accordingly, you state and provide documentation showing, you have notified Harwick of the request for information and of its right to submit arguments to this office as to why the remaining requested information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have reviewed the submitted representative sample of information.¹

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* Gov't Code

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

§ 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Harwick explaining why its information should not be released. Therefore, we have no basis to conclude Harwick has a protected proprietary interest in the information at issue. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any of the information at issue on the basis of any proprietary interest Harwick may have in it.

As you state, some of the responsive information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

As no exceptions to disclosure have been raised, the information at issue must be released. However, any information subject to copyright may be released only in accordance with copyright law.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/eb

Ref: ID# 512546

Enc. Submitted documents

c: Requestor
(w/o enclosures)

James Harwick+Partners, Inc.
8340 Meadow Road, Suite 248
Dallas, Texas 75231
(w/o enclosures)