



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2014

Mr. Ray Rodriguez
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2014-10056

Dear Mr. Rodriguez:

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# 525552 (COSA File No. W025794-032114).

The City of San Antonio (the "city") received a request for all proposals for a specified project.¹ 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 third parties. Accordingly, you state you notified these third 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.² 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 OJB. We have reviewed the submitted information

¹You note the requestor agreed to certain redactions.

²The third parties notified pursuant to section 552.305 are: Civitas, Inc., Coltrane Fernandez Zavalla Group, L.L.C., Daniel Woodroffe Group, L.L.C. d/b/a dwg., Design Workshop, Inc., Gustafson Guthrie Nichol Ltd., Hargreaves Associates, James Corner Field Operations, Mask Landscape Architecture, L.L.C., MESA Design Associates, Inc., Mikyoung Kim Design, L.L.C., The Office of James Burnett ("OJB"), Olin Partnership Ltd., PWP Landscape Architecture, Sasaki Associates, Inc., SCAPE / Landscape Architecture, P.L.L.C., Studio Outside, W Architecture and Landscape Architecture, L.L.C., Wallace Roberts & Todd, L.L.C.

Initially, we note some of the submitted information is not responsive to the instant request for information because it does not consist of the requested proposals. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release such information in response to this request.

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 § 552.305(d)(2)(B). Although we received comments from OJB, OJB did not raise any exceptions to disclosure or assert it had a protected proprietary interest in the responsive information. Further, we have not received comments from any other interested third parties explaining why the responsive information should not be released. Therefore, we have no basis to conclude any of the interested third parties has a protected proprietary interest in the responsive information. *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 the responsive information on the basis of any proprietary interest these third parties may have in the information.

The responsive documents include information that is subject to section 552.136 of the Government Code.³ Section 552.136 provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Accordingly, the city must withhold the insurance policy numbers in the responsive documents under section 552.136 of the Government Code.

We note some of the remaining 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.

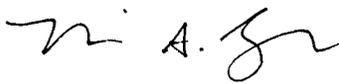
³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the insurance policy numbers in the responsive documents. The city must release the remaining responsive information; however, any information that is 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 525552

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Interested Third Parties
c/o Mr. Ray Rodriguez
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