ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 24, 2014

Ms. Tiffany Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2014-12894

Dear Ms. Evans:

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# 531570 (GC No. 21435).

The City of Houston (the "city") received a request for the monthly revenue reports submitted to the Houston Airport System in connection with the management and operation of the advertising concessions at two specified airports during a specified time period. Although the city takes no position with respect to the submitted information, you state its release may implicate the interests of JCDecaux Airport, Inc. ("JCDecaux"). Accordingly, you state, and provide documentation demonstrating, the city notified JCDecaux of the request for information and of its right to submit arguments stating why its 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information and the arguments submitted by JCDecaux.

JCDecaux raises section 552.110(b) of the Government Code, which protects "[c]ommercial 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[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

JCDecaux contends portions of the submitted information, including its pricing and client information, are commercial or financial information, release of which would cause the company substantial competitive harm. Upon review of JCDecaux's arguments, we conclude JCDecaux has established the release of its client information would cause it substantial competitive injury. Accordingly, to the extent the client information in Exhibit 2 is not publicly available on JCDecaux's website, the city must withhold the client information at issue under section 552.110(b). However, we note the pricing information of winning bidders of a government contract, such as JCDecaux, is generally not excepted under section 552.110(b). *See* Open Records Decision No. 514 (1988) (public has interest in knowing prices charged by government contractors); *see also* Open Records Decision No. 319 at 3 (1982) (information relating to organization and personnel, market studies, professional references, qualifications and experience, and pricing is not ordinarily excepted from disclosure under statutory predecessor to section 552.110). *See generally* Dep't of Justice Guide to the Freedom of Information Act 344-345 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is cost of doing business with government). Consequently, we find JCDecaux has not made the specific factual or evidentiary showing required by section 552.110(b) that release of its remaining information would cause the company substantial competitive harm. *See* ORD 319 at 3. We therefore conclude the city may not withhold the remaining information under section 552.110(b).

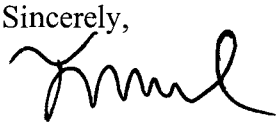
In summary, to the extent the client information in Exhibit 2 is not publicly available on JCDecaux's website, the city must withhold the client information within the submitted information under section 552.110(b). As no further exceptions to disclosure are raised, the city must release the remaining information.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/ds

Ref: ID# 531570

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)