



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 12, 2010

Ms. Myrna S. Reingold  
Galveston County Legal Department  
722 Moody, 5th Floor  
Galveston, Texas 77550-2317

OR2010-06759

Dear Ms. Reingold:

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# 380983.

The Galveston County Purchasing Agent (the "county") received six requests from three requestors for information pertaining to RFP B101007 and RFQ B101008. In his four requests, the first requestor seeks information pertaining to the selection process and vendor information in relation to RFP B101007 and RFQ 101008. The fifth and sixth requests seek the proposals selected for RFP 101007 and scoring information. You state you have released scoring information in response to the fifth and sixth requests. You also state you have provided the first requestor with information in response to his modified requests; therefore, the county is withdrawing the portion of its request for a ruling pertaining to the first four requests.<sup>1</sup> You claim the submitted proposals responsive to the fifth and sixth requests are excepted from disclosure under sections 552.101, 552.104, 552.136, and 552.137 of the

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<sup>1</sup>As a result of the county's partial withdrawal, the submitted information pertaining to the first four requests is no longer responsive, including the proposals submitted by: ArrowWest Builders, L.L.C.; Blu Shields Construction, L.L.C.; Charnock & Company, Inc.; Construction Cynergy, L.L.C.; Consulting Development & Construction, Inc.; DSW Homes, L.L.C.; EE&G Construction & Electrical, L.L.C.; Byrdson Services, L.L.C. d/b/a Excello Construction; F&S Environmental, L.L.C.; Highsmith Builders, Inc.; Holliday Builders, Inc.; J.C. Cantera Homes, Inc.; Joshua Dade Homes; KHBM Partners II, L.P. d/b/a Kendall Homes; Menadi, Inc. and Davanti Homes, L.L.C.; One80 Lonestar, L.L.C.; Palm Harbor Homes, Inc.; Rismiller Construction, L.L.C. d/b/a NewWave Homes; R&M Quality Construction, L.L.C.; Tegrity Homes, L.L.C.; Housing Group Partners Texas, L.L.C. d/b/a The Housing Group; T&T Utility Construction d/b/a Thurman Homes; and Worldwide Homes. This ruling will not address non-responsive information and the county need not release it.

Government Code. Additionally, you state the release of the proposals at issue may implicate the proprietary interests of America Home Builders, Inc.; American Homestar Corporation; Burghli Investments, L.L.C. d/b/a Burghli Homes and Promenade Homes, Inc.; BGB Interests, L.P. d/b/a Compass Pointe Homes; and Sullivan Land Services, Ltd. (collectively, the "third parties"). Accordingly, you notified the third parties of the requests and of their right to submit arguments stating why their information should not be released. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have considered your arguments and reviewed the submitted information.

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Gov't Code § 552.104(a). The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

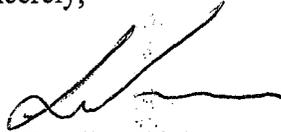
You state the county selected the vendors who submitted the proposals at issue as initial winning bidders for RFP B101007; however, no contract has been executed. You state RFP B101007 remains pending and contract negotiations are presently underway. You assert disclosure of the proposals at this time would give an advantage to competitors or other bidders and negatively impact negotiations. Based on your representations and our review, we conclude the county has demonstrated how release of the proposals at issue would harm its interests in a competitive situation. Accordingly, the county may withhold these proposals under section 552.104 of the Government Code until the contract is executed. As our ruling is dispositive, we need not address your remaining claims against disclosure of the information at issue.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 380983

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

cc: Mr. Craig Reynolds  
American Homestar Corporation  
2450 South Shore Blvd., Suite 300  
League City, Texas 77573  
(w/o enclosures)

Mr. Barry Conner and Mr. Richard Smith  
American Home Builders, Inc.  
3670 Hollywood Street  
Beaumont, Texas 77701  
(w/o enclosures)

Mr. Bobby Baillio, II  
Compass Pointe Homes  
16000 Stuebner Airline, Suite 420  
Spring, Texas 77379  
(w/o enclosures)

Compass Pointe Homes  
9950 Cypresswood Drive, #375  
Houston, Texas 77070  
(w/o enclosures)

Mr. Zaher H. Burghli  
Burghli-Homes  
4615 North Freeway, #212  
Houston, Texas 77022  
(w/o enclosures)

Mr. R. Stanley Davis  
Promenade Homes, Inc.  
12531 Mossycup Drive  
Houston, Texas 77024  
(w/o enclosures)

Mr. William W. Sullivan  
Sullivan Land Services, Ltd.  
P.O. Box 131486  
Houston, Texas 77219  
(w/o enclosures)

Mr. William W. Sullivan  
Sullivan Land Services, Ltd.  
P.O. Box 17017  
Galveston, Texas 77552  
(w/o enclosures)

Mr. James Griffin  
Excello Construction  
1245 West Cardinal Drive  
Beaumont, Texas 77705  
(w/o enclosures)

Mr. Peter J. Charnock  
Charnock & Company, Inc.  
1140 Sailfish  
Bayou Vista, Texas 77563  
(w/o enclosures)

Mr. Jim Schumer  
DSW Homes, LLC  
805 S. Highway 69  
Memorial Freeway  
Nederland, Texas 77627  
(w/o enclosures)

Mr. M. David Ray  
The Housing Group  
32 Colony Park Circle  
P.O. Box 16198  
Galveston, Texas 77552  
(w/o enclosures)

Mr. Jerry Wade, Jr.  
Menade, Inc.  
1525 Lakeville Drive, Suite 109  
Kingwood, Texas 77339  
(w/o enclosures)

Mr. Will Fountain  
F&S Environmental LLC  
904 Forrest Avenue  
Brewton, Alabama 36426  
(w/o enclosures)

Mr. Stephen C. Highsmith  
Highsmith Builders, Inc.  
305 N. College  
Weimar, Texas 78962  
(w/o enclosures)

Mr. Jerry Erwin and Mr. Jesse F. Ortega  
ArrowWest Builders, LLC  
14041 West Road, Suite 200  
Houston, Texas 77041  
(w/o enclosures)

Mr. William R. Russ, Sr.  
Construction Cynergy, LLC  
3874 Limmer Loop  
Hutto, Texas 78634  
(w/o enclosures)

Mr. Reid Sundberg  
EE&G Construction & Electrical, LLC  
1206 Kipp Avenue  
Kemah, Texas 77565  
(w/o enclosures)

Mr. Kevin Ashcraft  
Davanti Homes, LLC  
P.O. Box 1567  
Spring, Texas 77383  
(w/o enclosures)

Mr. Thomas S. Russo  
One80 Lonestar, LLC  
6628 Stewart Road  
Galveston, Texas 77551  
(w/o enclosures)

Mr. James C. Lieferman  
One80 Lonestar, LLC  
7575 Dr. Phillips Boulevard, Suite 240  
Orlando, Florida 32819  
(w/o enclosures)

Mr. Sid Holliday, III  
Holliday Builders, Inc.  
1027 Tremont  
Galveston, Texas 77550  
(w/o enclosures)

Mr. Charles G. Coyle  
J.C. Cantera Homes, Inc.  
514 Pecan Street  
Fresno, Texas 77545  
(w/o enclosures)

Mr. David Wickens  
Kendall Homes  
427 Mason Park Blvd.  
Katy, Texas 77450  
(w/o enclosures)

Mr. Ed Rismiller  
NewWave Homes  
2806 New Strand  
Galveston, Texas 77550  
(w/o enclosures)

Mr. Jason Franks  
Tegrity Homes, LLC  
2600 South Shore Blvd., Suite 300  
League City, Texas 77573  
(w/o enclosures)

Mr. Joseph Broussard  
Consulting, Development & Construction, Inc.  
601 Cien Street, Suite 120  
Kemah, Texas 77565  
(w/o enclosures)

Mr. P. Chad Holder  
Joshua Dade Homes  
P.O. Box 5247  
Houston, Texas 77262  
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Mr. Jim Branson  
Palm Harbor Homes, Inc.  
15303 Dallas Parkway, Suite 800  
Addison, Texas 75001  
(w/o enclosures)

Mr. Randy Malouf  
RM Quality Construction  
P.O. Box 813  
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Ms. Rebecca Thurman  
Thurman Homes  
9012 Frostwood Trail  
Austin, Texas 78729  
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