



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2010-18829

Dear Ms. Rangel:

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# 403633.

The Fort Bend County Attorney's Office (the "county") received a request for the county's evaluation of responses to Request For Proposals No. 10-102, General Contractor Services—Fort Bend County University Branch Library, the cost and project duration submitted by each bidder, and the identity of each bidder. Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of third parties.¹ You inform us pursuant to section 552.305 of the Government Code, you have notified the third parties of the request and of their right to submit arguments to this office explaining why their 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); *see also* 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.

¹The third parties are Brookstone, L.P.; Burton Construction Co.; D.E. Harvey Builders, Inc.; E.E. Reed Construction, L.P.; Gamma Construction Co.; Gilbane Building Co.; J.E. Dunn Construction; Miner-Dederick Construction, L.L.P.; Momentum Contractors, Inc.; Rosenberger Construction, L.P.; SpawGlass Construction Corp.; Summit Builders Construction Co.; Teal Construction Co.; Tribble & Stephens Construction, Ltd.; and Workman Commercial Construction Services, Ltd.

Initially, we note you have submitted information in addition to the county's evaluation of responses to the request for proposals and the name, cost, and project duration submitted by each bidder. This additional information is therefore not responsive to the present request. The county need not release any nonresponsive information in response to this request, and this ruling will not address such information.

Next, we note 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 requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the third parties have submitted any comments to this office explaining how release of the requested information would affect its proprietary interests. Accordingly, none of the information at issue may be withheld on the basis of the proprietary interests of any third party. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret). As the county makes no arguments regarding this information, it must release the requested 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.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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 403633

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Rodney Ledet
Brookstone
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Guy Cook
DE Harvey Builders
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Keith Williams
Gamma Construction
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Ms. Amanda Bratton
JE Dunn
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Brad Burton
Burton Construction
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Brian White
EE Reed
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. George Conces
Gilbane Building Company
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Ms. Krystal Ford
Miner-Dederick
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Kent Rosenberger
Rosenberger Construction
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Tim Dakai
Workman Commercial
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Michael P. Emmons
Mr. Roger Berry
SpawGlass Construction Corp.
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Momentum Contractors Inc.
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Ms. Amber Timmermeyer
Teal Construction
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Ms. Michelle Motley
Tribble & Stephens Construction, Ltd.
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)

Mr. Paul Stiak
Mr. Mark Pruit
Summit Builders
c/o Michelle Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469
(w/o enclosures)