



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2012

Mr. R. Gaines Griffin
Law Offices of Davidson & Troilo
7550 West IH-10, Suite 800
San Antonio, Texas 78229-5815

OR2012-03840

Dear Mr. Griffin:

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# 448230.

The City of Mission (the “city”), which you represent, received a request for the check disbursement journal of the Mission Economic Development Corporation (“MEDC”), a copy of each check paid by the city or MEDC to the Mission Economic Development Authority (“MEDA”), all MEDC documents authorizing disbursement of funds to MEDA, MEDC budgets for each year MEDC has been in existence and all amendments made to the budget during that time, and a copy of the city’s records retention policies. You state you have released the records retention policy to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

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

(a) [T]he following categories of information are public information and not excepted from required disclosure under this chapter unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body; [and]

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(3), (5). Exhibits E, F, and G, consisting of check registers and checks, relate to the expenditure of city funds and are subject to section 552.022(a)(3) of the Government Code. Exhibits H and I, consisting of budget amendments and budget amendment requests, constitute information used to estimate the need for or expenditure of city funds and are subject to section 552.022(a)(5) of the Government Code. The city must release information subject to subsections 552.022(a)(3) and 552.022(a)(5) unless the information is made confidential under the Act or other law. *Id.* You raise section 552.103 as an exception to disclosure of the requested information. However, section 552.103 is a discretionary exception that does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). Accordingly, the information at issue may not be withheld under section 552.103 of the Government Code. However, we note portions of the submitted information are subject to section 552.136 of the Government Code.² As section 552.136 makes information confidential under the Act, we will consider its applicability to the submitted information.

Section 552.136 of the Government Code states “[n]otwithstanding any other provision of this chapter, 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). This office has determined bank account and routing numbers are access device numbers for purposes of section 552.136. Accordingly, the city must withhold the

²The 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).

bank account and routing numbers we have marked under section 552.136 of the Government Code. 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.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,



Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 448230

Enc. Submitted documents

c: Requestor
(w/o enclosures)