



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2014

Ms. Sol M. Cortez  
Assistant City Attorney  
Office of the City Attorney  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-16871

Dear Ms. Cortez:

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# 536989 (Ref. No. 14-1044-362).

The City of El Paso (the "city") received a request for a specified contract with any contract extensions. Although we understand the city to take no position regarding whether the requested information is excepted from disclosure, you state release of the requested information may implicate the proprietary interests of FANEUIL, Inc. ("FANEUIL").<sup>1</sup> Accordingly, you state, and provide documentation showing, you notified FANEUIL of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *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 reviewed the submitted information.

Initially, we note the city only submitted contract extensions. To the extent information responsive to the remainder of the request existed on the date the city received the request,

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<sup>1</sup>Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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 id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from FANEUIL explaining why the submitted information should not be released. Therefore, we have no basis to conclude FANEUIL has a protected proprietary interest in the submitted 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 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 submitted information on the basis of any proprietary interest FANEUIL may have in the information. As no exceptions to disclosure have been raised for the submitted information, it must be released.

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](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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/dls

Ref: ID# 536989

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Anna M. Van Buren  
President/CEO  
FANEUIL  
2 Eaton Street, Suite 1002  
Hampton, Virginia 23669  
(w/o enclosures)