



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 5, 2015

Ms. Meredith Debus  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

OR2015-08718

Dear Ms. Debus:

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# 562337.

The City of Austin (the "city") received a request for the bid package and proposals, bid score sheets, all correspondence, and all contracts or leases related to a specified request for proposals. You state you will release some of the requested information. Although you take no position as to whether the submitted information is excepted from disclosure, you state release of the submitted information may implicate the proprietary interest of The Parking Spot ("Spot") and Scott Airport Property, LLC ("Scott"). You state you notified the third parties of the request for information and of the companies' rights 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 Act in certain circumstances). We have received comments from the legal representative of Scott. We have considered the submitted arguments and reviewed the submitted information.

Initially, the submitted information may be the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2014-09542 (2014) and 2013-10526 (2013). In Open Records Letter No. 2014-09542, we determined the city (1) must continue to rely on Open Records Letter No. 2013-10526 and withhold or release Spot's information that was identical to the information at issue in Open Records Letter

No. 2013-10526, (2) must withhold certain information under section 552.110(b) of the Government Code, and (3) must release the remaining information in accordance with copyright law. In response to our ruling, Scott filed a lawsuit against our office for some of the information at issue. *See Scott Airport Prop., LLC v. Attorney Gen. of Tex.*, Cause No. D-1-GN-14-001876. Accordingly, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public. In Open Records Letter No. 2013-10526, we ruled, in pertinent part, certain information must be withheld under section 552.110(b). As to the remaining information in Open Records Letter No. 2014-09542 that is not subject to litigation and Open Records Letter No. 2013-10526, we have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, to the extent the information is identical to the information previously requested and ruled upon by this office, we conclude the city may rely on Open Records Letter Nos. 2014-09542 and 2013-10526 as previous determinations and withhold or release the identical information in accordance with those ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior rulings, we will consider whether submitted information is excepted from disclosure under the Act.

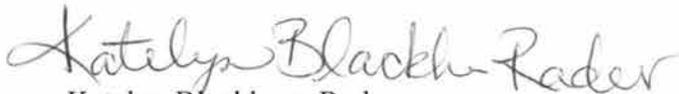
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Spot explaining why its information should not be released. Therefore, we have no basis to conclude Spot 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, 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), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Spot may have in the information.

In summary, we will allow the trial court to resolve the issue of whether the information that is the subject of pending litigation must be released to the public. To the extent the remaining information not at issue in the pending lawsuit is identical to the information previously requested and ruled upon by this office, we conclude the city may rely on Open Records Letter Nos. 2014-09542 and 2013-10526, in pertinent part, as previous determinations and withhold or release the identical information in accordance with those rulings. Any remaining information 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,



Katelyn Blackburn-Rader  
Assistant Attorney General  
Open Records Division

KB-R/akg

Ref: ID# 562337

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Counsel for Scott Airport Property  
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The Parking Spot  
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