



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2016

Mr. Robert Davis
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2016-07061

Dear Mr. Davis:

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# 603881.

The City of Austin (the "city") received a request for the city's grant application to the United States Economic Development Administration for a specified project and all associated documents.¹ The city does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, it states release of this information may implicate the proprietary interests of Balcones Resources, Liquid Environmental, Goodwill Central Texas, and Greys Paper Recycling. Accordingly, the city states, and provides documentation showing, it notified these third parties of the city's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability

¹We note, and the city acknowledges, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third party interests can provide a compelling reason to overcome the presumption of openness, we will consider third party arguments against disclosure. *See id.* §§ 552.007, .302, .352.

of exception in the Act in certain circumstances). We have reviewed the submitted information.

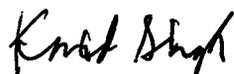
Initially, we note the city has only submitted portions of the grant application. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from any of the third parties. Thus, we have no basis for concluding any of the submitted information constitutes proprietary information of any third party, and the city may not withhold any portion of the submitted information on that basis. *See* Open Records Decision Nos. 652 at 5 (1997) (to prevent disclosure of commercial or financial information, third party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5-6 (1990) (third party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the city must release the submitted 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.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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

Ref: ID# 603881

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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