



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 31, 2016

Ms. Brandi M. Youngkin
Assistant City Attorney
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2016-07220

Dear Ms. Youngkin:

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# 603971 (Plano File No. 16-002).

The City of Plano (the "city") received a request for the schedule of proposed fees and rates included in the winning proposal submitted in response to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Capital One. Accordingly, you state, and provide documentation showing, you notified Capital One 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 although you raise section 552.110 of the Government Code for the submitted information, that exception is designed to protect the interests of third parties, not the interests of a governmental body. *See* Gov't Code § 552.110 (excepts from disclosure trade secret or commercial or financial information obtained from third party). Thus, we do not address your argument under section 552.110. We also note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received

arguments from Capital One. Thus, we have no basis to conclude Capital One has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)–(b); 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 that 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 interests Capital One may have in the information. As no exceptions to disclosure have been raised, 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

Ref: ID# 603971

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Michael Bradford
Capital One
203 West 2nd Street, 2nd Floor
Thibodaux, Louisiana 70301
(w/o enclosures)