



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 15, 2016

Mr. Karl P. Baker
Counsel for the Hemisfair Park Area Redevelopment Corporation
Golden Steves Cohen & Gordon, L.L.P.
300 Convent Street, Suite 2600
San Antonio, Texas 78205

OR2016-20863

Dear Mr. Baker:

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# 626466.

The Hemisfair Park Area Redevelopment Corporation ("HPARC"), which you represent, received a request for information pertaining to a specified proposed project, including information pertaining to related requests for proposals.¹ You state you have provided some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104, 552.105, 552.111, 552.131, and 552.153 of the Government Code. You also state release of the submitted information may implicate the interests of third parties. Accordingly, you state you notified these third parties of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of

¹We note HPARC sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

exception in certain circumstances). We have received comments from Cambridge Holdings, Inc.; the NRP Group, L.L.C.; and Zachry Hospitality L.L.C. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov’t Code § 552.104(a). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. You state HPARC is currently engaged in negotiations with a potential partner but has not entered into a definitive agreement. You further state release of the submitted information “would disadvantage HPARC and advantage either the [potential partner] or another firm should negotiations with the [potential partner] not be successful[.]” After review of the information at issue and consideration of the arguments, we find HPARC has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude HPARC may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

Ref: ID# 626466

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)