

POPE, HARDWICKE
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ATTORNEYS

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ROBERT E. HARDWICKE
(1889-1970)
ALEX POPE, JR.
(1913-1988)
ROBERT E. HARDWICKE, JR.
(1917-1991)

JUSTIN S. LIGHT
jlight@popehardwicke.com

August 1, 2019

Via CMRRR #7017 1450 0001 7341 0771

The Honorable Ken Paxton
The Office of the Attorney General of Texas
Open Records Division
P.O. Box 12548
Austin, TX 78711

Re: Request for Attorney General's Opinion pursuant to Chapter 552, Texas Government Code (the "Texas Public Information Act" or the "Act"); Request for Public Information dated July 12, 2019 by Robert Montoya (the "Request"); TRWD Request 19.083

Dear General Paxton:

We serve as general counsel to the Tarrant Regional Water District, a Water Control and Improvement District (the "District"), which was created, exists and operates pursuant to Article 16, Section 59 of the Texas Constitution. The District hereby requests an Attorney General's opinion under Sections 552.301 & 552.305 of the Texas Public Information Act [Tex. Gov't Code §§ 552.301 & 552.305].

On July 29, 2019, Paula Stewart, the District's Public Information Coordinator, on behalf of the District, sent a letter to the Attorney General advising that a decision from your office is sought pursuant to Texas Government Code § 552.301 & 552.305 as to whether the District must produce a portion of the responsive documents in response to the Request that are excepted from disclosure – July 29, 2019 being the date that we certify said letter was sent. A copy of the July 29, 2019 letter to the Attorney General is attached as Tab "1."

The District also certifies that on July 29, 2019, the District also sent the Requestor a letter notifying him of the District's request for a ruling from the Attorney General and provided a copy of the request to the Attorney General to the Requestor. A copy of the July 29, 2019 letter to the Requestor is enclosed under Tab "2," which includes the responsive information previously provided to the Requestor.

By electronic submission dated July 12, 2019, a copy of which is included Exhibit "A" under Tab "1," a written request for information was made under the Texas Public Information Act, Texas Government Code, Chapter 552 (the "Act"). The District received the Request at 7:29 p.m., after The

District's operating hours on Friday, July 12, 2019.¹ As such, the District certifies it received the Request on July 15, 2019, the following business day the District was open for business.

The Request seeks documents corresponding "to all contracts between the TRWD [Tarrant Regional Water District] and any or all media outlets or any other organization regarding the water conservation marketing campaign with the City of Dallas, approved on May 14, 2019." There are four responsive documents. The District has released two documents to the Requestor and seeks the Attorney General's decision on the remaining two documents enclosed herewith under Tab "3."

The Request references a memorandum of understanding between the City of Dallas ("Dallas") and the District. Since 2009, Dallas and the District have jointly worked together for the development and funding of a regional campaign focuses on the efficient use of the regional water supply. The District and the City of Dallas supply water to nearly 4.65 million people in the Dallas-Fort Worth Metroplex and surrounding communities. The District has entered into a similar memorandum of understanding with the North Texas Municipal Water District. The District's contribution for the regional public awareness campaign for water conservation is \$583,334. The Water Conservation Public Awareness Campaign is to build awareness of the "importance of using water wisely and to provide useful tips on efficient water use." See Memorandum of Understanding between the District and the City of Dallas (the "Dallas MOU"), included herewith under Tab "2." As referenced on page 2 of the Dallas MOU, the public entities work together and share costs in the campaign during peak irrigation season during the summer in an effort to minimize water waste and ultimately save money for water providers and customers. To date, in furtherance of the marketing campaign for water conservation, the District has entered into [REDACTED] with R0 Two Media LLC and Charlie Uniform Tango. [REDACTED] are the subject of this request to the Attorney General.

Below, the District has identified the exception to disclosure that applies, the information to which such exception applies, and the District respectfully request a ruling on the matter.

§ 552.104. Exception: Information Related to Competition or Bidding

The District believes the entirety of the requested information under Tab "3" is excepted from disclosure by Section 552.104 (Exception: Information Relating to Competition or Bidding) of the Act, which provides, in pertinent part, that "[i]nformation is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder." TEX. GOV'T CODE ANN. § 552.104.

Release of the responsive information will put the District at a disadvantage in obtaining competitive bids from consultants [REDACTED]

The marketing campaign subject of the Request has been a joint effort by the District with other

¹ The District is open for business from 8:30 a.m. to 4:30 p.m. on Fridays.

governmental entities since 2009. [REDACTED]
[REDACTED] “The purpose of section 552.104 is to protect the...interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers.” Tex. Atty Gen. OR 2009-17592 *citing* Tex. Atty. Gen Op. 592 (1991). Release of either or both [REDACTED] would put the District in a competitive disadvantage in receiving the most competitive bids as it would disclose [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Competing bidders wanting to compete for similar services as part of this and other District marketing campaigns could use the information [REDACTED] as a bargaining tool and affect the District’s ability to receive the most competitive bids for the remainder of the current and future campaigns.

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, 841 (Tex. 2015); *see also* Tex. Att’y Gen. Op. OR2016-16453 (2016). The District’s funds for the marketing campaign are allocated in each year’s budget along with its government partners and the allocation of funds and awarding of contracts are competitive for each media buy or television production contract. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Since the process is highly competitive, the District would also be at disadvantage in releasing the preferred media purchases the District seeks in its campaigns in effort to make the public aware of water conservation issues. [REDACTED]
[REDACTED]

[REDACTED] Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987) *see* Op. Tex. Att’y Gen. No. OR2013-18010 (2013). The responsive information also gives insight as to how the District [REDACTED] [REDACTED] that compete for the District’s business in the marketing campaign. In total, release of the responsive information would provide a clear threat of harm to the District’s ability to obtain the best pricing and contractual provisions in the current and continuing marketing campaigns.

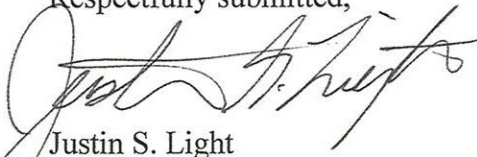
Because RO Two Media LLC and Charlie Uniform Tango are also affected by the potential release of the information subject of the Request and this request for Opinion, the District gave notice to both RO Two Media LLC and Charlie Uniform Tango pursuant to §552.305. The District requests an opinion pursuant to both §552.301 & 552.305. A copy of both of the notices sent to both RO Two Media LLC and Charlie Uniform Tango are included as Exhibit “C” under Tab “1.”

The Honorable Ken Paxton
The Office of the Attorney General of Texas
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The District hereby certifies that the factual statements made herein are true and correct. For the foregoing reasons, the District respectfully requests that the Attorney General issue his opinion ruling that the information included under Tab "3" at issue herein is excepted from disclosure and that the District may withhold the information. As required by Texas Government Code § 552.301(e)(1)(D), the responsive information is attached hereto at Tab "3." The District believes the listed exception applies to all of the information included at Tab "3."

Pursuant to § 552.301(e-1) of the Act, we are providing to the Requestor on this date a redacted copy of this letter, which partially discloses the substance of the information requested, a copy of which (w/o exhibits) is enclosed as Tab "4". Also pursuant to § 552.301(e-1), the copy of this letter being provided to the Requestor does not include the information found at Tab "3," which the District asserts is exempt from disclosure.

Respectfully submitted,



Justin S. Light

Enclosures

P:\TRWD\Public Info Requests\Montoya, Robert\Attorney General (Arguments to AG- 8-1-2019).docx

cc: Tarrant Regional Water District

(Redacted; w/o Tab 3)

Mr. Robert Montoya

P.O. Box 700981

Dallas, Texas 75370

(Via CMRRR #7017 1450 0001 7341 0788 and email rmonoya@empowertexans.com)



July 29, 2019

The Honorable Ken Paxton
Attorney General of Texas
Open Records Division
PO Box 12548
Austin TX 78711-2548

Via CM RRR #7016 1970 0000 2113 7317

Re: Request for Attorney General's Opinion pursuant to Chapter 552, Texas Government Code [TRWD PIR #19.083]

Dear Mr. Paxton:

This letter is sent on behalf of the Tarrant Regional Water District, a Water Control and Improvement District (the "District"), which was created, exists and operates pursuant to Article 16, Section 59 of the Texas Constitution. The District hereby requests an Attorney General's opinion under Sections 552.301 & 552.305 of the Texas Public Information Act [Tex. Gov't Code § 552.301] (the "Act").

By way of an online form submitted to the District, the Requestor, Robert Montoya, made a written request for information under the Act. A copy of that request (the "Request") is attached hereto as Exhibit "A". As evidenced on Exhibit "A", the District received the Request at 7:29 p.m., after business hours on Friday, July 12, 2019.¹ As such, the District certifies it received the Request on July 15, 2019. As such, this request for a decision from your office is made within ten (10) business days following the District's receipt of the Request and, therefore, is timely submitted pursuant to Section 552.301(b) of the Act.

Also on today's date, July 29, 2019, the District sent written notification to the Requestor that the Attorney General's decision would be sought as to whether some information responsive to the Request is excepted under the Act. A copy of the District's July 29, 2019 letter is enclosed as Exhibit "B".

The District seeks a decision from your office pursuant to Texas Government Code §§ 552.301 & 552.305 as to whether the District must produce documents in response to the Request that are excepted by, among others, Sections 552.110 of

¹ The District is open for business from 8:30 a.m. to 4:30 p.m. on Fridays.

The Honorable Ken Paxton
July 29, 2019
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the Act [Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information]; Section 552.131 of the Act [Exception: Confidentiality of Certain Economic Development Information]; Section 552.111 of the Act [Exception: Agency Memoranda]; Section 552.107 of the Act [Exception: Certain Legal Matters]; Section 552.104 of the Act [Exception: Information Relating to Competition or Bidding]; and Section 552.101 of the Act [Exception: Information Confidential by Law].

The District also seeks a ruling from the Attorney General pursuant to Section 552.305 regarding a portion of the responsive documents as the District believes the information requested may involve a person's privacy or property interests, including a case under Sections 552.101, 552.104, 552.110, 552.113, or 552.131 of the Act.

Pursuant to section 552.305 [Information Involving Privacy or Property Interests of Third Party], the District has notified the subject third parties of the current pending request from Mr. Montoya for the contracts, advising said third parties that they are entitled to object to the release of the requested information, including the process by which they may do so. A copy of the written notifications to the third parties at issue are attached collectively hereto as Exhibit "C".

The District also seeks the decision of the Attorney General as to all other exceptions under the Act which are applicable to the Request.

In its submittal to follow within fifteen (15) business days after the date the District received the Request, the District will submit documentation establishing the foregoing matters.

For the foregoing reasons, the District respectfully requests that the Attorney General issue his opinion regarding the required disclosure of the subject information.

By copy of this letter to the requestor we are providing him with the information required by Section 552.301(d) of the Act. The District is releasing the responsive information to the Request not subject to the Attorney General's ruling.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paula Stewart".

Paula Stewart, CRM, CA
Public Information Coordinator

The Honorable Ken Paxton
July 29, 2019
Page 3

Enclosures

CC: Robert Montoya
Empower Texas
PO Box 700981
Dallas TX 75370

EXHIBIT A

From: TRWD Website - <WebMain@trwd.com>
Sent: Friday, July 12, 2019 7:29 PM
To: Nancy King; Paula Stewart; Susan Hubbard; Chad Lorance
Subject: Open Records Request - TRWD Website

From: Robert Montoya <rmontoya@empowertexans.com>
Organization: Empower Texans
Address:
PO Box 700981
Dallas, Texas 75370

Phone: 2144323076
Email: rmontoya@empowertexans.com

Information Requested:

For the period of time from 5/1/19 to Present:

- Documents corresponding to all contracts between the TRWD and any or all media outlets or any other organization regarding the water conservation marketing campaign with the City of Dallas, approved on May 14, 2019.

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This e-mail was sent from a contact form on Tarrant Regional Water District
(<http://www.trwd.com/contact-trwd/open-records/>)

Caution: This email originated from outside TRWD. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please contact the Help Desk if you have any questions.

EXHIBIT B



July 29, 2019

Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370

Via CM RRR #7016 1970 0000 2113 6327 and e-mail to
rmontoya@empowertexans.com

Re: Your July 12, 2019 Texas Public Information Act (Open Records) Request [TRWD
PI Request #19.083]

Mr. Montoya,

This letter is sent in response to your public information request (the "Request") submitted to Tarrant Regional Water District (the "District"). Your Request was not sent during the District's normal business hours (Fridays, 8:30 a.m. to 4:30 p.m.) and was not received by the District until July 15, 2019. We certify that the Request was received on Monday, July 15, 2019. Your Request seeks:

For the period of time from 5/1/19 to Present:

- Documents corresponding to all contracts between the TRWD and any or all media outlets or any other organization regarding the water conservation marketing campaign with the City of Dallas, approved on May 14, 2019.

Pursuant to Sections 552.301(d) and 552.305 of the Texas Government Code, we hereby advise you that the District wishes to withhold a portion of the responsive information sought in the Request and on this date has asked for a decision from the Attorney General about whether the information is within exceptions to public disclosure. We enclose herewith a copy of the written communication with the Attorney General asking for such a decision.

Also pursuant to Section 552.301(d) and 552.305 of the Texas Government Code, we hereby advise you that a portion of the responsive information to your Request may include third-party proprietary and/or confidential information. As such, the District has on this date asked for a decision from the Attorney General about whether any of the information is within one or more exceptions to public disclosure. We enclose herewith a copy of the written communications with the third parties.

Mr. Robert Montoya
July 29, 2019
Page 2

By copy of this letter to the Attorney General, we are certifying compliance with the above-cited sections of the Government Code.

A decision from the Attorney General is anticipated within approximately forty-five (45) business days. At that time, if the Attorney General advises you are entitled to receipt of all and/or some of the requested information, we will also inquire as to how you wish to receive and/or review the information which is determined may be released.

Enclosed is the information not subject to the District's request for a decision from the Attorney General.

In the meantime, please do not hesitate to contact me if you have any questions or comments.

Regards,



Paula Stewart, CRM, CA
Public Information Coordinator

Enclosures

CC: The Honorable Ken Paxton
Attorney General of Texas
Open Records Division
PO Box 12548
Austin TX 78711-2548
(w/o enclosures)

EXHIBIT C



July 29, 2019

Mr. Jeff Elmore
Executive Producer
Charlie Uniform Tango
1722 Routh St
Ste 204
Dallas TX 75201

Via CM RRR #7016 1970 0000 2113 6679 and First Class Mail

Dear Mr. Elmore:

We have received a formal request to inspect or copy some of our files. A copy of the request for information is enclosed. The requested files include records we received from you or from your company. The Office of the Attorney General is reviewing this matter, and they will issue a decision on whether Texas law requires us to release your records. Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the attorney general that one or more exceptions apply to your records. You are not required to submit arguments to the attorney general, but if you decide not to submit arguments, the Office of the Attorney General will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the attorney general will more than likely rule that your records must be released to the public. If you decide to submit arguments, you must do so not later than the tenth business day after the date you receive this notice.

If you submit arguments to the attorney general, you must:

- a) identify the legal exceptions that apply,
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. Attorney General Opinion H-436 (1974). You may

Mr. Jeff Elmore
July 29, 2019
Page 2

contact this office to review the information at issue in order to make your arguments. We will provide the attorney general with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The attorney general is generally required to issue a decision within 45 business days.

Please send your written comments to the Office of the Attorney General at the following address:

Office of the Attorney General
Open Records Division
PO Box 12548
Austin TX 78711-2548

If you wish to submit your written comments electronically, you may only do so via the Office of the Attorney General's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the attorney general's website at <http://www.texasattorneygeneral.gov> for more information.

In addition, you are required to provide the requestor with a copy of your communication to the Office of the Attorney General. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.104: Confidentiality of Information Relating to Competition

Boeing Co. v. Paxton, 466 S.W. 3d 831 (Tex. 2015).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Mr. Jeff Elmore
July 29, 2019
Page 3

Trade Secrets:

In re Bass, 113 S.W.3d 735 (Tex. 2003).

Hyde Corp. v. Huffines, 314 S.W.2d 763, 776 (Tex.), cert. denied, 358 U.S. 898 (1958).

Open Records Decision No. 552 (1990).

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), abrogated by In re Bass, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994).

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the Office of the Attorney General, or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). To access the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the attorney general's website at <http://www.texasattorneygeneral.gov>.

Sincerely,



Paula Stewart
Public Information Coordinator

Enclosure: Copy of request for information

Mr. Jeff Elmore
July 29, 2019
Page 4

CC: Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370
(w/o enclosure)

Open Records Division
Office of the Attorney General
PO Box 12548
Austin TX 78711-2548
(w/o enclosure)



July 29, 2019

Mr. Rodrigo Vallejo
CEO
RO Two Media LLC
7007 Twin Hills Ave
Ste 401
Dallas TX 75231

Via CM RRR #7016 1970 0000 2113 7324 and First Class Mail

Dear Mr. Vallejo:

We have received a formal request to inspect or copy some of our files. A copy of the request for information is enclosed. The requested files include records we received from you or from your company. The Office of the Attorney General is reviewing this matter, and they will issue a decision on whether Texas law requires us to release your records. Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the attorney general that one or more exceptions apply to your records. You are not required to submit arguments to the attorney general, but if you decide not to submit arguments, the Office of the Attorney General will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the attorney general will more than likely rule that your records must be released to the public. If you decide to submit arguments, you must do so not later than the tenth business day after the date you receive this notice.

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Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments.

Mr. Rodrigo Vallejo
July 29, 2019
Page 2

We will provide the attorney general with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The attorney general is generally required to issue a decision within 45 business days.

Please send your written comments to the Office of the Attorney General at the following address:

Office of the Attorney General
Open Records Division
PO Box 12548
Austin TX 78711-2548

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In addition, you are required to provide the requestor with a copy of your communication to the Office of the Attorney General. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

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Mr. Rodrigo Vallejo
July 29, 2019
Page 3

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Sincerely,



Paula Stewart
Public Information Coordinator

Enclosure: Copy of request for information

Mr. Rodrigo Vallejo
July 29, 2019
Page 4

CC: Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370
(w/o enclosure)

Open Records Division
Office of the Attorney General
PO Box 12548
Austin TX 78711-2548
(w/o enclosure)

From: Paula Stewart
To: rmontoya@empowertexans.com
Subject: RE: Your July 12, 2019 Texas Public Information Act (Open Records) Request [TRWD PI Request #19.083]
Date: Monday, July 29, 2019 4:40:28 PM
Attachments: [19.083 20190729 Notice to Requestor Montoya.pdf](#)

Mr. Montoya:

Attached is a copy of the response sent to you today via certified mail.

Regards,

Paula Stewart, CRM, CA
Public Information Coordinator

www.trwd.com

<https://www.trwd.com/contact/>

<https://www.facebook.com/TarrantRegionalWaterDistrict>

twitter @trwd_news



July 29, 2019

Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370

Via CM RRR #7016 1970 0000 2113 6327 and e-mail to
rmontoya@empowertexans.com

Re: Your July 12, 2019 Texas Public Information Act (Open Records) Request [TRWD
PI Request #19.083]

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Mr. Robert Montoya
July 29, 2019
Page 2

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In the meantime, please do not hesitate to contact me if you have any questions or comments.

Regards,

A handwritten signature in black ink that reads "Paula Stewart". The signature is written in a cursive, flowing style.

Paula Stewart, CRM, CA
Public Information Coordinator

Enclosures

CC: The Honorable Ken Paxton
Attorney General of Texas
Open Records Division
PO Box 12548
Austin TX 78711-2548
(w/o enclosures)



July 29, 2019

The Honorable Ken Paxton
Attorney General of Texas
Open Records Division
PO Box 12548
Austin TX 78711-2548

Via CM RRR #7016 1970 0000 2113 7317

Re: Request for Attorney General's Opinion pursuant to Chapter 552, Texas Government Code [TRWD PIR #19.083]

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This letter is sent on behalf of the Tarrant Regional Water District, a Water Control and Improvement District (the "District"), which was created, exists and operates pursuant to Article 16, Section 59 of the Texas Constitution. The District hereby requests an Attorney General's opinion under Sections 552.301 & 552.305 of the Texas Public Information Act [Tex. Gov't Code § 552.301] (the "Act").

By way of an online form submitted to the District, the Requestor, Robert Montoya, made a written request for information under the Act. A copy of that request (the "Request") is attached hereto as Exhibit "A". As evidenced on Exhibit "A", the District received the Request at 7:29 p.m., after business hours on Friday, July 12, 2019.¹ As such, the District certifies it received the Request on July 15, 2019. As such, this request for a decision from your office is made within ten (10) business days following the District's receipt of the Request and, therefore, is timely submitted pursuant to Section 552.301(b) of the Act.

Also on today's date, July 29, 2019, the District sent written notification to the Requestor that the Attorney General's decision would be sought as to whether some information responsive to the Request is excepted under the Act. A copy of the District's July 29, 2019 letter is enclosed as Exhibit "B".

The District seeks a decision from your office pursuant to Texas Government Code §§ 552.301 & 552.305 as to whether the District must produce documents in response to the Request that are excepted by, among others, Sections 552.110 of

¹ The District is open for business from 8:30 a.m. to 4:30 p.m. on Fridays.

The Honorable Ken Paxton
July 29, 2019
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the Act [Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information]; Section 552.131 of the Act [Exception: Confidentiality of Certain Economic Development Information]; Section 552.111 of the Act [Exception: Agency Memoranda]; Section 552.107 of the Act [Exception: Certain Legal Matters]; Section 552.104 of the Act [Exception: Information Relating to Competition or Bidding]; and Section 552.101 of the Act [Exception: Information Confidential by Law].

The District also seeks a ruling from the Attorney General pursuant to Section 552.305 regarding a portion of the responsive documents as the District believes the information requested may involve a person's privacy or property interests, including a case under Sections 552.101, 552.104, 552.110, 552.113, or 552.131 of the Act.

Pursuant to section 552.305 [Information Involving Privacy or Property Interests of Third Party], the District has notified the subject third parties of the current pending request from Mr. Montoya for the contracts, advising said third parties that they are entitled to object to the release of the requested information, including the process by which they may do so. A copy of the written notifications to the third parties at issue are attached collectively hereto as Exhibit "C".

The District also seeks the decision of the Attorney General as to all other exceptions under the Act which are applicable to the Request.

In its submittal to follow within fifteen (15) business days after the date the District received the Request, the District will submit documentation establishing the foregoing matters.

For the foregoing reasons, the District respectfully requests that the Attorney General issue his opinion regarding the required disclosure of the subject information.

By copy of this letter to the requestor we are providing him with the information required by Section 552.301(d) of the Act. The District is releasing the responsive information to the Request not subject to the Attorney General's ruling.

Respectfully submitted,



Paula Stewart, CRM, CA
Public Information Coordinator

The Honorable Ken Paxton
July 29, 2019
Page 3

Enclosures

CC: Robert Montoya
Empower Texas
PO Box 700981
Dallas TX 75370



July 29, 2019

Mr. Jeff Elmore
Executive Producer
Charlie Uniform Tango
1722 Routh St
Ste 204
Dallas TX 75201

Via CM RRR #7016 1970 0000 2113 6679 and First Class Mail

Dear Mr. Elmore:

We have received a formal request to inspect or copy some of our files. A copy of the request for information is enclosed. The requested files include records we received from you or from your company. The Office of the Attorney General is reviewing this matter, and they will issue a decision on whether Texas law requires us to release your records. Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the attorney general that one or more exceptions apply to your records. You are not required to submit arguments to the attorney general, but if you decide not to submit arguments, the Office of the Attorney General will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the attorney general will more than likely rule that your records must be released to the public. If you decide to submit arguments, you must do so not later than the tenth business day after the date you receive this notice.

If you submit arguments to the attorney general, you must:

- a) identify the legal exceptions that apply,
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. Attorney General Opinion H-436 (1974). You may

Mr. Jeff Elmore
July 29, 2019
Page 2

contact this office to review the information at issue in order to make your arguments. We will provide the attorney general with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The attorney general is generally required to issue a decision within 45 business days.

Please send your written comments to the Office of the Attorney General at the following address:

Office of the Attorney General
Open Records Division
PO Box 12548
Austin TX 78711-2548

If you wish to submit your written comments electronically, you may only do so via the Office of the Attorney General's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the attorney general's website at <http://www.texasattorneygeneral.gov> for more information.

In addition, you are required to provide the requestor with a copy of your communication to the Office of the Attorney General. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.104: Confidentiality of Information Relating to Competition

Boeing Co. v. Paxton, 466 S.W. 3d 831 (Tex. 2015).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Mr. Jeff Elmore
July 29, 2019
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Trade Secrets:

In re Bass, 113 S.W.3d 735 (Tex. 2003).

Hyde Corp. v. Huffines, 314 S.W.2d 763, 776 (Tex.), cert. denied, 358 U.S. 898 (1958).

Open Records Decision No. 552 (1990).

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), abrogated by In re Bass, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994).

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the Office of the Attorney General, or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). To access the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the attorney general's website at <http://www.texasattorneygeneral.gov>.

Sincerely,



Paula Stewart
Public Information Coordinator

Enclosure: Copy of request for information

Mr. Jeff Elmore
July 29, 2019
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CC: Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370
(w/o enclosure)

Open Records Division
Office of the Attorney General
PO Box 12548
Austin TX 78711-2548
(w/o enclosure)



July 29, 2019

Mr. Rodrigo Vallejo
CEO
RO Two Media LLC
7007 Twin Hills Ave
Ste 401
Dallas TX 75231

Via CM RRR #7016 1970 0000 2113 7324 and First Class Mail

Dear Mr. Vallejo:

We have received a formal request to inspect or copy some of our files. A copy of the request for information is enclosed. The requested files include records we received from you or from your company. The Office of the Attorney General is reviewing this matter, and they will issue a decision on whether Texas law requires us to release your records. Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the attorney general that one or more exceptions apply to your records. You are not required to submit arguments to the attorney general, but if you decide not to submit arguments, the Office of the Attorney General will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the attorney general will more than likely rule that your records must be released to the public. If you decide to submit arguments, you must do so not later than the tenth business day after the date you receive this notice.

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Mr. Rodrigo Vallejo
July 29, 2019
Page 2

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Office of the Attorney General
Open Records Division
PO Box 12548
Austin TX 78711-2548

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Mr. Rodrigo Vallejo
July 29, 2019
Page 3

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Sincerely,



Paula Stewart
Public Information Coordinator

Enclosure: Copy of request for information

Mr. Rodrigo Vallejo -
July 29, 2019
Page 4

CC: Mr. Robert Montoya
Empower Texans
PO Box 700981
Dallas TX 75370
(w/o enclosure)

Open Records Division
Office of the Attorney General
PO Box 12548
Austin TX 78711-2548
(w/o enclosure)

**MEMORANDUM OF UNDERSTANDING
PUBLIC AWARENESS CAMPAIGN**

This Memorandum of Understanding ("MOU") is entered into this 15th day of Nov, 2019, ("Effective Date") by and between the **TARRANT REGIONAL WATER DISTRICT**, a Water Control and Improvement District, a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59, of the Texas Constitution (hereafter referred to as "TRWD") and the **NORTH TEXAS MUNICIPAL WATER DISTRICT**, a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59, of the Texas Constitution (hereafter referred to as "NTMWD"). TRWD and NTMWD may hereinafter be referred to individually as a "Party" and jointly as the "Parties."

WHEREAS, TRWD and the City of Dallas ("Dallas") previously entered into that certain Memorandum of Understanding-Public Awareness Campaigns dated to be effective September 26, 2012 (the "TRWD-Dallas MOU"), in order to jointly establish, manage and fund certain public awareness campaign initiatives;

WHEREAS, the TRWD-Dallas MOU sets forth mechanisms for jointly establishing, managing and funding campaigns to enhance public awareness of issues related to protection and conservation of public water sources;

WHEREAS, the TRWD-Dallas MOU contemplates that other public entities might contribute to and participate in such public awareness campaigns;

WHEREAS, NTMWD wishes to join with TRWD and Dallas to jointly establish, manage and fund a public awareness campaign; and

WHEREAS, TRWD and NTMWD have entered into this MOU to memorialize their agreement with respect to same.

NOW THEREFORE, for and in consideration of the mutual benefits and obligations set forth herein, the receipt and sufficiency of which is hereby expressly acknowledged, the Parties agree as follows:

1. Public Awareness Campaign.

- a. The Parties shall jointly establish a Public Awareness Campaign to
 - i. inform and educate the public regarding issues related to protection of drinking water sources and/or water conservation;
 - ii. foster community ownership of the protection of drinking water sources and/or water conservation; and
 - iii. raise the public's awareness of the public's role and impact in the protection of drinking water sources and/or water conservation.

- b. The objectives, scope, methods of communication, activities, project coordination, Party obligations and budgets of the Public Awareness Campaign shall be set forth in the Attachment to this MOU.

Cost Sharing.

- a. TRWD and NTMWD shall contribute to the cost of the Public Awareness Campaign based upon a mutually agreed budget for the Public Awareness Campaign.
- b. The contributions of each of TRWD, NTMWD and Dallas to the Public Awareness Campaign will be totaled and the proportion of each Party's contribution to the total shall constitute each such Party's Sharing Ratio (hereinafter so called).
- c. An annual accounting of funds shall be provided for the Public Awareness Campaign and shall include but not be limited to a media buy reconciliation.
- d. All payments or expenditures made pursuant to this MOU will be made from current revenues as required by Chapter 791, Texas Government Code.

2. Term and Termination.

- a. The Term of this MOU shall be five (5) years from the effective date of this MOU, which effective date shall be the date that the later of the Parties executes this MOU, and shall automatically be renewed and extended for successive one (1) year terms. However, this MOU may be terminated for convenience by either Party in its sole discretion upon thirty (30) days written notice and payment of any outstanding amounts due from the terminating Party, including budgeted amounts for the Public Awareness Campaign previously approved by the terminating Party. Termination of the MOU terminates the Public Awareness Campaign incorporated in this MOU by the Attachment.
- b. The term for the Public Awareness Campaign shall be for one (1) year and shall automatically be renewed and extended for successive one-year terms. However, the Public Awareness Campaign may be individually terminated for convenience by either Party in its sole discretion upon (30) days written notice and payment of any outstanding amounts due from the terminating Party, including budgeted amounts for the Public Awareness Campaign previously approved by the terminating Party.
- c. If a Party terminates its participation, it agrees to make reasonable efforts to coordinate with other Parties for the purpose of minimizing messaging and/or advertisement placement conflicts as it relates to the use of campaign materials previously created under this MOU. The withdrawing Party recognizes the potential confusion resulting from continued use of campaign materials created under this MOU and will use its best efforts to follow the direction of the remaining Parties to prevent the confusion in the DFW media market. Parties intend to create and publish campaign

materials that are beneficial to furthering regional water conservation activities, whether or not this MOU remains effective.

3. Performance Measures

- a. Performance measures shall be established for the Public Awareness Campaign as set forth in the Attachment for the Public Awareness Campaign.
- b. Reporting frequency of performance measures for the Public Awareness Campaign shall be set forth in the Attachment for the Public Awareness Campaign.
- c. TRWD and NTMWD may establish additional reporting measures from time to time for the Public Awareness Campaign.

4. Binding Nature of MOU. It is the intent of the Parties that this MOU be a binding agreement between them in principle with regard to the provisions set forth herein. However, the Parties also acknowledge that each of the principal agreements set forth herein contemplates the execution of additional definitive agreements between the Parties to accomplish the principal agreements contained herein. Provided further, this MOU and the Attachment is subject to the approval of the Board of Directors (or designated staff member) of each Party. Neither Party shall have any obligation that is not consistent with the general principles and agreements set forth herein, or which increases its costs or expenses beyond what is herein contemplated.

5. Dispute Resolution.

- a. If a dispute arises out of or related to the interpretation of this MOU or the Attachment, the Parties' performance hereunder, or the breach thereof, the Parties agree to negotiate and to pursue alternative dispute resolution prior to prosecuting a suit for damages or other relief. This section, however, does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either Party may make a written request for a meeting between representatives of both Parties within fourteen (14) calendar days after receipt of the request. Each Party shall include in the requested meeting, at a minimum, one (1) senior level official with the authority to make recommendations regarding the dispute to its governing body. The purpose of the requested meeting and any subsequent meeting is to attempt, in good faith, to negotiate resolution of the dispute. No statements made by any Party at such a meeting shall be admissible in any legal proceeding between the Parties for any purpose. If, within thirty (30) calendar days after such initial meeting, the Parties have not succeeded in negotiating a resolution of the dispute, the Parties will proceed to mediation as described below. Negotiation may be waived by a written agreement signed by both Parties, in which event the Parties may proceed directly to mediation as described below.
- b. If the efforts to resolve the dispute through negotiation as described above fail or the Parties waive the negotiation process, the Parties may select,

within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should the Parties choose this option, each Party agrees to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this MOU prevents the Parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the Parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Presiding Judge of the Eighth Administrative Judicial Region for the State of Texas.

- c. The Parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The Parties will equally share the costs of the mediator selected to mediate the dispute.

6. Notices. All written notices required under this MOU must be hand-delivered or sent by certified mail, return receipt requested, addressed to the proper Party at the following addresses:

To TRWD:

Tarrant Regional Water District
Attn: James M. Oliver
800 E. Northside Drive
Fort Worth, Texas 76102

To NTMWD:

North Texas Municipal Water District
Attn: Thomas W. Kula
501 East Brown Street
Wylie, Texas 75098

7. Governing Law. The Parties agree that this MOU shall in all respects be governed by, and construed in accordance with, the laws of the State of Texas (without regard to principles of conflict of laws that would require the application of a law of another jurisdiction), This MOU is performable in Tarrant County, Texas and exclusive venue shall lie in its courts of competent jurisdiction.

8. Captions and Headings. Captions and headings used in this MOU are for reference purposes only and shall not be deemed a part of this MOU.

9. Counterparts. This MOU may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this MOU to produce or account for more than one such counterpart.

10. Entire Agreement. This MOU represents the entire understanding of the Parties in relation to the subject matter hereof, and supersedes any and all previous agreements, arrangements or discussions between them (whether written or oral) in respect of the subject matter hereof.

11. Governmental Powers. By execution of this MOU, neither TRWD nor NTMWD waives their sovereign or governmental powers or immunities, all of which are expressly reserved.

12. Severability. If any provision of this MOU shall be determined to be unenforceable, void or otherwise contrary to law, such condition shall in no manner operate to render any other provision of this MOU unenforceable, void or contrary to law, and this MOU shall continue in force in accordance with the remaining terms and provisions hereof, unless such condition invalidates the purpose or intent of this MOU.

13. Amendment. No amendment, modification, or alteration of the terms of this MOU shall be binding unless it is in writing, dated subsequent to this MOU, and duly executed by the Parties hereto.

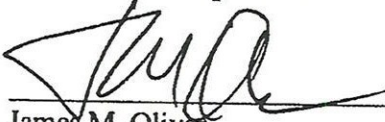
14. Third Party Rights. The provisions and conditions of this MOU are solely for the benefit of TRWD, NTMWD and Dallas, where applicable, and are not intended to create any rights, contractual or otherwise, for any person or entity.

15. Conflicts. In the event of any dispute over the meaning or application of any provision of this MOU, this MOU shall be interpreted fairly and reasonably, and neither more strongly for or against any Party, regardless of the actual drafter of this MOU.

16. No Partnership. Nothing in this MOU shall be deemed to create a partnership, agency, joint venture, or joint enterprise between the Parties.

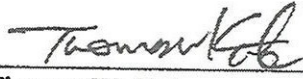
[Signature Page Follows]

TARRANT REGIONAL WATER DISTRICT,
A Water Control and Improvement District

By: 
James M. Oliver
General Manager

Date: 05/15/2019

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: 
Thomas W. Kula
Executive Director

Date: 4/29/19

Attachment 1
PUBLIC AWARENESS CAMPAIGN

PUBLIC AWARENESS CAMPAIGN
Attachment to Memorandum of Understanding
Water Conservation Public Awareness Campaign

Purpose

Fund a cooperative agreement to develop creative for a regional public awareness campaign to encourage efficient water use, reduce water waste, and reduce water demand in the North Central Texas area ("Conservation Campaign").

Background

As water suppliers for nearly 4 million people in the Dallas-Fort Worth Metroplex and surrounding communities, Tarrant Regional Water District ("TRWD") and North Texas Municipal Water District ("NTMWD") have a keen interest in the wise and efficient use of the regional water supply. NTMWD and TRWD are each individually referred to herein as a "Party" and collectively as the "Parties."

In 2009, the City of Dallas ("Dallas") and TRWD began working together on the development and funding of a regional campaign, the goal of which is to continue to build awareness of the importance of using water wisely and to provide useful tips on efficient water use. The joint campaign launches annually in summer, as the peak irrigation season begins. Outdoor irrigation is a primary target, since it has the highest potential water savings for water customers and water providers.

This regional campaign has resulted in significant financial savings and advantages for both entities. By sharing a common message and creative product, each agency has reduced creative development and production costs by half. And by using the same advertising creative, each agency also benefits from the other's media purchase, doubling the message exposure per media dollar. NTMWD wishes to join with Dallas and TRWD in their joint efforts by contributing funds and providing input for the Conservation Campaign, and TRWD and NTMWD have entered into a Memorandum of Understanding ("MOU") to evidence their agreement. This Addendum forms a part of that MOU.

As in prior Water Conservation Public Awareness Campaigns, future creative produced for the Conservation Campaign will include television, radio, on-line advertising, billboards, transit and print advertising. Additionally, TRWD and NTMWD will share the costs to maintain and update the Conservation Campaign website. Further, NTMWD and TRWD will be pooling their regional media buy dollars for the term of the Conservation Campaign by contributing funds and providing input for this campaign.

Campaign Steering Committee

- A. The Parties agree to establish a joint Conservation Campaign Steering Committee comprised of an equal number of representatives from TRWD, Dallas and NTMWD. Each agency will be represented by a minimum of two (2) committee members.

- B. Final approval on all joint creative Conservation Campaign concepts shall rest with the Steering Committee, subject to sufficient appropriations by each agency. One selected Dallas and NTMWD committee member shall provide written approval of the Conservation Campaign concept to TRWD committee members. TRWD Steering Committee member(s) will then authorize the Campaign contractor to proceed with the joint creative Conservation Campaign concept.
- C. Joint creative concept meetings will be planned and coordinated by TRWD Steering Committee members. Non-TRWD steering committee members shall receive at least forty-eight (48) hours' notice, unless the meeting is an emergency, and Dallas and NTMWD shall have the option to attend all joint creative concept contractor meetings.
- D. TRWD Steering Committee member(s) will be responsible for providing final joint creative Conservation Campaign concept approval to the Conservation Campaign contractor.
- E. In the event of disagreement over any issue within the Conservation Campaign Steering Committee, the issue shall be determined by a vote, with each Party having a weighted vote equal to its Sharing Ratio (as such term is defined in the MOU). A majority vote shall determine any such issue.
- F. TRWD and NTMWD agree that no joint creative Conservation Campaign shall in any way conflict with the following NTMWD local water conservation campaigns, initiatives, and programs as they exist on the effective date of this agreement: North Texas Water IQ, WaterMyYard.org, Water4Otter, PledgeToPlantSmart, TurfIQ, Love Lavon Lake, and ad campaign materials (print, electronic, video, etc.) existing on the effective date of the agreement.

Contracting

- A. TRWD shall enter into such contracts as are necessary with creative or advertising agencies to develop the creative concept, direction and production for the Conservation Campaign, and media buyer. TRWD shall strive to involve Minority and Women-Owned Business Enterprises (M/WBE) and/or Historically Underutilized Businesses (HUB) to the greatest extent feasible on the joint creative contract.
- B. Each Party will share an equal voice in the selection of the contractors and the direction of the creative work and regional media buy developed for the Conservation Campaign. While TRWD will enter into contracts as described in the previous paragraph, TRWD will take into account to the maximum extent practicable the other Parties' direction regarding contractor selection as part of the Campaign Steering Committee. The Parties will further share an equal voice through the Campaign Steering Committee in identification, review, and

approval of the creative work and regional media buy, and each will continue to be an equal Party in the development of any new or modified versions of the creative for the Conservation Campaign and will be included in any and all communications relating to the cost, creative direction, and contract negotiations related to this effort.

- C. Once selected, the Conservation Campaign advertising contractor will present initial creative development and Conservation Campaign proposals in a timely manner and in collaboration with TRWD, Dallas and NTMWD to allow the launch of a Conservation Campaign in June of each year. The production schedule and final budget will be determined by TRWD, Dallas and NTMWD after the creative direction for the Conservation Campaign has been determined. The media buyer will create a media plan based on the annual amount budgeted for the regional media buy and in collaboration with TRWD, Dallas and NTMWD. Each agency will participate in and fund the annual media buy plan. Parties will communicate and respond in a timely manner at all stages of the Conservation Campaign to avoid any delays.

Funding

- A. Upon the execution of this Conservation Campaign, NTMWD shall contribute an amount not to exceed \$583,334.00 on an annual basis, as appropriated.
- a. The combined annual cost of the Conservation Campaign will not exceed \$1,750,002.00, and will cover all costs necessary to develop the Conservation Campaign, including:
- i. an estimated \$400,002.00 in the aggregate to include costs for
 1. the creative development for the Conservation Campaign concept;
 2. the creative production for all shared print, outdoor, transit and internet advertising;
 3. the production of TV ads, radio ads and web videos;
 4. social media content and development, as needed;
 5. design, maintenance and support for the Conservation Campaign website, as needed;
 6. the development and production of other Conservation Campaign creative, as needed; and
 7. the development and execution of a regional end-of-Conservation Campaign survey; and
 - ii. an estimated \$1,350,000.00 in the aggregate for each entity's portion of the regional media buy, to include broadcast TV, radio, and regional digital advertising.
- b. The number and sort of advertisements to be created in each category will be agreed to by the Parties. All creative and production costs for the development of the Conservation Campaign will be itemized for budgetary approval. Itemization will include:

- i. cost for the creative development;
 - ii. cost for the design and production (by unit) of:
 - 1. print ads;
 - 2. outdoor billboards;
 - 3. on-line ads, including banner ads, native advertising ads, sponsored social media posts, etc.;
 - 4. television ads;
 - 5. radio ads; and
 - 6. web videos; and
 - iii. Conservation Campaign website design and updates, as needed.
 - c. A media buy budget and plan will be agreed to and developed each year of the Conservation Campaign, to include:
 - i. An overall media budget, and the dollars budgeted for each media type/category. The annual media plan shall also include the estimated customer exposure to the messaging by media type/category; and
 - ii. At the conclusion of the media buy campaign, a detailed media buy reconciliation will be produced by the contractor to include:
 - 1. the final dollar amount spent, by media outlet and type/category;
 - 2. the final customer exposure totals, by media outlet and type/category; and
 - 3. proof of purchase/invoices for each media outlet by type/category.
- B. Before TRWD incurs any costs related to the development of the Conservation Campaign, a budget will be agreed to in writing by the Parties, in an aggregate annual amount not to exceed \$1,750,002.00
- C. NTMWD agrees to make payments to TRWD for campaign expenses under this Conservation Campaign within thirty (30) days of the receipt of a payable invoice. The invoice from TRWD will be proportionate of the contractor's cost based on NTMWD's Sharing Ratio and will include a copy of the original invoice from the contractor.
- D. Withdrawal from Conservation Campaign
 - a. All Parties choosing to withdraw from the Conservation Campaign will be responsible for their share of any costs associated with prior approvals. For example:
 - 1. Parties who participate in determining the Conservation Campaign creative direction are responsible for their percentage share of the creative production, if the Party approved that creative or agreed to that creative direction or production before their decision to withdraw.

2. Parties who participate in final media buy commitments will pay for any and all costs or fees associated with their withdrawal from that approved plan.
- b. All Parties who choose to withdraw from the campaign agree to not use any future Conservation Campaign-related materials, messaging, likeness, media, etc. once the request for withdraw has been made. Withdrawal from the Campaign agreement rescinds all rights to use any and all future creative that has not yet been developed for the Conservation Campaign.

Fair Opportunity Purchasing and Contracting

- A. In accordance with the "City of Dallas-Tarrant Regional Water District Interlocal Cooperation Contract" Article IV Fair Opportunities Purchasing and Contracting, the Parties will strive to ensure that all qualified businesses, regardless of size, economic, social, racial, gender, or ethnic status have a fair opportunity to participate in joint projects undertaken hereunder.
- B. The Parties have jointly established requirements for prospective consultants to ensure a good faith effort to achieve a subcontracting goal of 25% to participation by Minority/Women Owned Business Enterprises (M/WBE) and Historically Underutilized Businesses (HUB).

Term

The term of the joint Water Conservation Public Awareness Campaign shall be for one (1) year and shall automatically be renewed and extended for successive one-year terms unless otherwise terminated by either Party in its sole discretion upon (30) days written notice and payment of any outstanding amounts due from the terminating Party, if any.

[Signature Page Follows]

EXECUTED as of this 15th day of May, 2019.

TARRANT REGIONAL WATER DISTRICT,
A Water Control and Improvement District

By: 
James M. Oliver
General Manager

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: 
Thomas W. Kula
Executive Director

STATE OF TEXAS
COUNTY OF DALLAS

§
§
§

MEMORANDUM OF UNDERSTANDING

This Agreement is made and entered into by and between the CITY OF DALLAS, a Texas municipal corporation of Dallas County, Texas (hereinafter called "Dallas"), acting by and through its duly authorized officers, and Tarrant Regional Water District, a political subdivision of the State of Texas (hereinafter called "TRWD"), acting by and through its duly authorized officers.

WITNESSETH:

WHEREAS, the TRWD and Dallas have the authority to enter into this agreement, and have each entered into this agreement by the action of its governing body in the appropriate manner prescribed by law; and

WHEREAS, water conservation is a critical component of managing regional water supplies; and

WHEREAS, the purpose of this agreement is to fund a cooperative agreement to develop creative content for a regional public awareness campaign to encourage efficient water use, reduce water waste, and reduce water demand in the Dallas-Fort Worth area.

WHEREAS, TRWD and Dallas specify that each party paying for the performance of said functions of government shall make those payments from current funds available to the paying party.

NOW THEREFORE, this contract is made and entered into by TRWD and Dallas in consideration of the aforementioned recitals and for the mutual consideration stated herein ("the Agreement"):

WATER CONSERVATION PUBLIC AWARENESS CAMPAIGN

Background

As water suppliers for nearly 4.65 million people in the Dallas-Fort Worth Metroplex and surrounding communities, the City of Dallas (Dallas) and Tarrant Regional Water District (TRWD) have a keen interest in the wise and efficient use of the regional water supply.

In 2009, Dallas and TRWD began working together on the development and funding of a regional campaign. The Water Conservation Public Awareness Campaign goal is to continue to build awareness of the importance of using water wisely and to provide useful tips on efficient water use. The joint campaign launches annually in summer, as

the peak irrigation season begins. Outdoor irrigation is a primary target, since it has the highest potential water savings for water customers and water providers.

Dallas and TRWD working together on a regional campaign has resulted in significant financial savings and advantages for both entities. By sharing a common message and creative product, each agency has reduced creative development and production costs by half. And by using the same advertising creative, each agency also benefits by the other's media purchase, doubling the message exposure per media dollar. Since 2009, Dallas and TRWD have each saved a total of \$1.3 million in creative production costs and gained advertising exposure worth \$6.75 million.

As in prior Water Conservation Public Awareness Campaigns, future creative produced for the campaign will include television, radio, on-line advertising, billboards, transit and newspaper advertising. Additionally, Dallas and TRWD will share the costs to maintain and update the regional campaign website and the regional watering advice tool developed as a free resource for customers.

The shared annual budget to develop and produce the creative has not been increased since the first Memorandum of Understanding (MOU) for the joint Water Conservation Public Awareness Campaign in 2014. Since then, creative production costs have increased and Dallas and TRWD have begun to work together on other regional tools, including the Water is Awesome website and on-line watering advice.

Additionally, Dallas and TRWD will be pooling their regional media buy dollars for the term of this MOU. Previously, each campaign had their own media buy and, within each entity's media buy budget, committed dollars for regional advertising (TV, radio and digital). By pooling our regional advertising dollar, a shared media buyer can better negotiate rates for the combined regional media buy.

Campaign Steering Committee

- A. The campaign steering committee shall be comprised of an equal number of representatives from TRWD and Dallas. Each agency will be represented by a minimum of two (2) committee members.
- B. Final approval on all joint creative campaign concepts shall rest with the steering committee, subject to sufficient appropriations by each agency. One selected Dallas committee member shall provide written approval of the campaign concept to TRWD committee members. TRWD steering committee member(s) will then authorize the campaign contractor to proceed with the joint creative campaign concept.
- C. Joint creative concept meetings will be planned and coordinated by TRWD steering committee members. Dallas steering committee members shall receive at least forty-eight (48) hours' notice, unless the meeting is an

emergency, and Dallas shall have the option to attend all joint creative concept contractor meetings.

- D. TRWD steering committee member(s) will be responsible for providing final joint creative campaign concept approval to the campaign contractor.

Contracting

- A. As with the previous MOU, TRWD shall enter into such contracts as are necessary with creative or advertising agencies to develop the creative concept, direction and production for the public awareness campaign, and media buyer. TRWD shall strive to involve Minority and Women-Owned Business Enterprises (M/WBE) and/or Historically Underutilized Businesses (HUB) to the greatest extent feasible on the joint creative contract.
- B. Dallas and TRWD will share an equal voice in the selection of the contractors and the direction of the creative work and regional media buy developed for the campaign. While TRWD will enter into contracts as described in the previous paragraph, TRWD will take into account to the maximum extent practicable Dallas' direction regarding contractor selection as part of the campaign steering committee. Dallas and TRWD will further share an equal voice through the campaign steering committee in identification, review, and approval of the creative work and regional media buy. Dallas will continue to be an equal Party in the development of any new or modified versions of the creative for the Water Conservation Public Awareness Campaign and will be included in any and all communications relating to the cost, creative direction, and contract negotiations related to this effort.
- C. Once selected, the advertising contractor will present initial creative development and campaign proposals in a timely manner and in collaboration with TRWD and Dallas to allow the launch of a campaign in June of each year. The production schedule and final budget will be determined by both TRWD and Dallas after the creative direction for the campaign has been determined. The media buyer will create a media plan based on the annual amount budgeted for the regional media buy and in collaboration with TRWD and Dallas. Both agencies will agree to the elements and funding of the annual media buy plan. Parties will communicate and respond in a timely manner at all stages of the campaign to avoid any delays.

Funding

- A. Upon the execution of this MOU and for the purposes of funding the Water Conservation Public Awareness Campaign, TRWD shall contribute an amount not to exceed SIX HUNDRED SEVENTY THOUSAND AND NO/100 DOLLARS (\$670,000) and Dallas shall contribute an amount not to exceed

SIX HUNDRED SEVENTY THOUSAND AND NO/100 DOLLARS (\$670,000) on an annual basis, subject to appropriation.

- a. **The combined annual budget will not exceed ONE MILLION, THREE HUNDRED FORTY THOUSAND DOLLARS AND NO/100 (\$1,340,000), and will cover all costs necessary to develop the campaign, including:**
 - i. **an estimated \$200,000 for each entity to include costs for**
 1. **the creative development for the campaign concept;**
 2. **the creative production for all shared print, outdoor, transit and internet advertising**
 3. **the production of TV ads, radio ads and web videos**
 4. **social media content and development, as needed**
 5. **design, maintenance and support for the campaign website, as needed**
 6. **the development and production of other campaign creative, as needed.**
 7. **the development and execution of a regional end-of-campaign survey**
 - ii. **an estimated \$20,000 for each entity to include costs for the technical support and modification to the on-line weekly watering advice tool, as needed, and**
 - iii. **an estimated \$450,000 for each entity's portion of the regional media buy**
 1. **to include broadcast TV, radio, and regional digital advertising**
- b. **The number and sort of advertisements to be created in each category will be agreed to by both Parties. All creative and production costs for the development of the joint campaign will be itemized for budgetary approval. Itemization will include:**
 - i. **cost for the creative development;**
 - ii. **cost for the design and production (by unit) of**
 1. **print ads**
 2. **outdoor billboards**
 3. **on-line ads, including banner ads, native advertising ads, sponsored social media posts, etc.**
 4. **television ads**
 5. **radio ads**
 6. **web videos**
 - iii. **campaign website design and updates, as needed**
- c. **A media buy budget and plan will be agreed to and developed each year of the campaign, to include**
 - i. **An overall media budget, and the dollars budgeted for each media type/category. The annual media plan shall also include**

the estimated customer exposure to the messaging by media type/category.

- ii. At the conclusion of the media buy campaign, a detailed media buy reconciliation will be produced by the contractor to include:
 1. the final dollar amount spent, by media outlet and type/category,
 2. the final customer exposure totals, by media outlet and type/category,
 3. proof of purchase/invoices for each media outlet by type/category.
 - d. Costs for technical support and modification to the on-line weekly watering advice tool will be agreed to by both TRWD and Dallas before costs are incurred, and those costs will be divided equally.
- B. Before TRWD incurs any costs related to the development of the joint Water Conservation Public Awareness Campaign, a budget will be agreed to in writing by both TRWD and Dallas, in an annual amount not to exceed \$670,000 for either party.
- C. Dallas agrees to make payments to TRWD for campaign expenses under this agreement within thirty (30) days of the receipt of a payable invoice. The invoice from TRWD will be an equal share of the contractor's cost and will include a copy of the original invoice from the contractor.
- D. Both TRWD and Dallas funding for the Water Conservation Public Awareness Campaign are subject to annual appropriations.
- E. Both TRWD and Dallas support a regional approach to water efficiency awareness and remain open to discussing the option of other North Texas public entities responsible for water service, conservation, or planning (Other Parties) for participating in this agreement.
- a. If Other Parties join the regional water efficiency public awareness campaign it shall be at the sole discretion of Dallas and TRWD, collectively, and all Other Parties will agree in a letter agreement or otherwise with TRWD as follows:
 - i. Each Other Party will have up to two (2) members on the campaign steering committee to provide feedback and vote on creative, media buy and other campaign decisions. If a consensus cannot be reached, the campaign direction shall be determined via a vote.
 - ii. Votes will be weighted based on the dollar amount agreed to be contributed to the regional campaign as follows.
 1. Other Parties contributing the same amount or more than TRWD and Dallas will have an equal vote in campaign decisions.

2. Other Parties contributing less than TRWD and Dallas will have the weight of their vote reduced to the equivalent percentage of their financial contribution.

F. Withdrawal from regional campaign

- a. All Parties choosing to withdraw from the campaign will be responsible for their share of any costs associated with prior approvals. For example:

1. Parties who participate in determining the campaign creative direction are responsible for their percentage share of the creative production, if the Party approved that creative or agreed to that creative direction before their decision to withdraw.
2. Parties who participate in final media buy commitments will pay for any and all costs or fees associated with their withdrawal from that approved plan.

- b. All Parties who choose to withdraw from the campaign agree to not use any future conservation campaign related materials, messaging, likeness, media, etc. once the request for withdraw has been made. Withdrawal from the campaign agreement rescinds all rights to use any and all future creative that has not yet been developed for the campaign.

Fair Opportunity Purchasing and Contracting

- A. In accordance with the "City of Dallas-Tarrant Regional Water District Interlocal Cooperation Contract" Article IV Fair Opportunities Purchasing and Contracting, Dallas and TRWD will strive to ensure that all qualified businesses, regardless of size, economic, social, racial, gender, or ethnic status have a fair opportunity to participate in joint projects undertaken by Dallas and TRWD.
- B. Dallas and TRWD have jointly established requirements for prospective consultants to ensure a good faith effort to achieve a subcontracting goal of 25% to participation by Minority/Women Owned Business Enterprises (M/WBE) and Historically Underutilized Businesses (HUB).

Binding Nature of MOU

It is the intent of the Parties that this MOU be a binding agreement between them in principle with regard to the provisions set forth herein. This MOU is subject to the approval of TRWD's Board of Directors (or designated staff member) and Dallas' City Council. The Parties shall have a duty of good faith and fair dealing with regard to agreeing on the scope, terms, unanticipated details, and changes in the Water Conservation Public Awareness Campaign. Neither Party shall have any obligation that

is inconsistent with the general principles, objectives, and provisions set forth herein, or which increases its costs or expenses beyond what is herein contemplated.

Notices

All written notices required under this MOU must be hand delivered or sent by certified mail, return receipt requested, addressed to the proper party at the following address:

To TRWD:

Tarrant Regional Water District
Attn: Jim Oliver, General Manager
800 E. Northside Drive
Fort Worth, Texas 76102

To Dallas:

City of Dallas
Attn: City Manager
1500 Marilla, 4AN
Dallas, Texas 75201

Governing Law

The Parties agree that this MOU shall in all respects be governed by, and construed in accordance with, the laws of the State of Texas, (without regard to principles of conflict of laws that would require the application of a law of another jurisdiction), and exclusive venue shall lie in the courts of competent jurisdiction in Tarrant County, Texas.

Captions and Headings

Captions and headings used in this MOU are for reference purposes only and shall not be deemed a part of this MOU.

Counterparts

This MOU may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this MOU to produce or account for more than one such counterpart.

Entire Agreement

This MOU represents the entire understanding of the Parties in relation to the subject matter hereof, and supersedes any and all previous agreements, arrangements or discussions between them (whether written or oral) in respect of the subject matter hereof.

Governmental Powers

By execution of this MOU, neither TRWD nor Dallas waives their sovereign or governmental powers or immunities, all of which are expressly reserved.

Severability

If any provision of this MOU shall be determined to be unenforceable, void or otherwise contrary to law, such condition shall in no manner operate to render any other provision of this MOU unenforceable, void or contrary to law, and this MOU shall continue in force in accordance with the remaining terms and provisions hereof, unless such condition invalidates the purpose or intent of this MOU.

Amendment

No amendment, modification, or alteration of the terms of this MOU shall be binding unless it is in writing, dated subsequent to this MOU, and duly executed by the Parties hereto.

Third Party Rights

The provisions and conditions of this MOU are solely for the benefit of TRWD and Dallas and are not intended to create any rights, contractual or otherwise, for any person or entity.

Conflict

In the event of any dispute over the meaning or application of any provision of this MOU, this MOU shall be interpreted fairly and reasonably, and neither more strongly for or against any Party, regardless of the actual drafter of this MOU.

Dispute Resolution

- A. If a dispute arises out of or related to the interpretation of this MOU or the Attachment, the Parties' performance hereunder, or the breach thereof, the Parties agree to negotiate and to pursue alternative dispute resolution prior to prosecuting a suit for damages or other relief. This section, however, does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either Party may make a written request for a meeting between representatives of both Parties within fourteen (14) calendar days after receipt of the request. Each Party shall include in the requested meeting, at a minimum, one (1) senior level official with the authority to make recommendations regarding the dispute to its governing body. The purpose of the requested meeting and any subsequent meeting is to attempt, in good faith, to negotiate resolution of the dispute. No statements made by any Party at such a meeting shall be admissible in any legal proceeding between the Parties for any purpose. If, within thirty (30) calendar days after such initial meeting, the Parties have not succeeded in negotiating a resolution of the dispute, the Parties will proceed to mediation as described below. Negotiation may be waived by a written agreement signed by both Parties, in which event the Parties may proceed directly to mediation as described below.

- B. If the efforts to resolve the dispute through negotiation as described above fail or the Parties waive the negotiation process, the Parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should the Parties choose this option, each Party agrees to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this MOU prevents the Parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the Parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Presiding Judge of the Eighth Administrative Judicial Region for the State of Texas.
- C. The Parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The Parties will equally share the costs of the mediator selected to mediate the dispute.

No Partnership

Nothing in this MOU shall be deemed to create a partnership, agency, joint venture, or joint enterprise between the Parties.

Term and Termination

- A. The term of the joint Water Conservation Public Awareness Campaign shall be for a period of five (5) years, unless otherwise terminated by either Party in its sole discretion upon (30) days written notice and payment of any outstanding amounts due from the terminating party, if any.
- B. If a Party terminates its participation, it agrees to make reasonable efforts to coordinate with other Parties for the purpose of minimizing messaging and/or advertisement placement conflicts as it relates to the use of campaign materials previously created under this MOU. The withdrawing Party recognizes the potential confusion resulting from continued use of campaign materials created under this MOU and will use its best efforts to follow the direction of the remaining Parties to prevent the confusion in the DFW media market. Parties intend to create and publish campaign materials that are beneficial to furthering regional water conservation activities, whether or not this MOU remains effective.

EXECUTED this, the _____ day of _____, 2019, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. 19-_____.

adopted by the City Council on _____, 2019, and by TRWD, acting through its duly authorized official.

TARRANT REGIONAL WATER DISTRICT,
A Water Control and Improvement District

By: Jack Stevens
Jack Stevens - President, Board of Directors

ATTEST:

Leah M. King
Leah M. King - Secretary,
Board of Directors

CITY OF DALLAS, TEXAS
T.C. Broadnax, City Manager

By: _____
Assistant City Manager

APPROVED AS TO FORM:
Christopher J. Caso, Interim City Attorney

By: _____
Assistant City Attorney

POPE, HARDWICKE
CHRISTIE, SCHELL, KELLY & TAPLETT, L.L.P.
ATTORNEYS

ESTABLISHED 1952
500 WEST 7TH STREET, SUITE 600
FORT WORTH, TEXAS 76102
(817) 332-3245
FAX (817) 877-4781

ROBERT E. HARDWICKE
(1889-1970)
ALEX POPE, JR.
(1913-1988)
ROBERT E. HARDWICKE, JR.
(1917-1991)

JUSTIN S. LIGHT
jlight@popehardwicke.com

August 1, 2019

Via CMRRR #7017 1450 0001 7341 0771

The Honorable Ken Paxton
The Office of the Attorney General of Texas
Open Records Division
P.O. Box 12548
Austin, TX 78711

Re: Request for Attorney General's Opinion pursuant to Chapter 552, Texas Government Code (the "Texas Public Information Act" or the "Act"); Request for Public Information dated July 12, 2019 by Robert Montoya (the "Request"); TRWD Request 19.083

Dear General Paxton:

We serve as general counsel to the Tarrant Regional Water District, a Water Control and Improvement District (the "District"), which was created, exists and operates pursuant to Article 16, Section 59 of the Texas Constitution. The District hereby requests an Attorney General's opinion under Sections 552.301 & 552.305 of the Texas Public Information Act [Tex. Gov't Code §§ 552.301 & 552.305].

On July 29, 2019, Paula Stewart, the District's Public Information Coordinator, on behalf of the District, sent a letter to the Attorney General advising that a decision from your office is sought pursuant to Texas Government Code § 552.301 & 552.305 as to whether the District must produce a portion of the responsive documents in response to the Request that are excepted from disclosure – July 29, 2019 being the date that we certify said letter was sent. A copy of the July 29, 2019 letter to the Attorney General is attached as Tab "1."

The District also certifies that on July 29, 2019, the District also sent the Requestor a letter notifying him of the District's request for a ruling from the Attorney General and provided a copy of the request to the Attorney General to the Requestor. A copy of the July 29, 2019 letter to the Requestor is enclosed under Tab "2." which includes the responsive information previously provided to the Requestor.

By electronic submission dated July 12, 2019, a copy of which is included Exhibit "A" under Tab "1," a written request for information was made under the Texas Public Information Act, Texas Government Code, Chapter 552 (the "Act"). The District received the Request at 7:29 p.m., after The

The Honorable Ken Paxton
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District's operating hours on Friday, July 12, 2019.¹ As such, the District certifies it received the Request on July 15, 2019, the following business day the District was open for business.

The Request seeks documents corresponding "to all contracts between the TRWD [Tarrant Regional Water District] and any or all media outlets or any other organization regarding the water conservation marketing campaign with the City of Dallas, approved on May 14, 2019." There are four responsive documents. The District has released two documents to the Requestor and seeks the Attorney General's decision on the remaining two documents enclosed herewith under Tab "3."

The Request references a memorandum of understanding between the City of Dallas ("Dallas") and the District. Since 2009, Dallas and the District have jointly worked together for the development and funding of a regional campaign focuses on the efficient use of the regional water supply. The District and the City of Dallas supply water to nearly 4.65 million people in the Dallas-Fort Worth Metroplex and surrounding communities. The District has entered into a similar memorandum of understanding with the North Texas Municipal Water District. The District's contribution for the regional public awareness campaign for water conservation is \$583,334. The Water Conservation Public Awareness Campaign is to build awareness of the "importance of using water wisely and to provide useful tips on efficient water use." See Memorandum of Understanding between the District and the City of Dallas (the "Dallas MOU"), included herewith under Tab "2." As referenced on page 2 of the Dallas MOU, the public entities work together and share costs in the campaign during peak irrigation season during the summer in an effort to minimize water waste and ultimately save money for water providers and customers. To date, in furtherance of the marketing campaign for water conservation, the District has entered into [REDACTED] with R0 Two Media LLC and Charlie Uniform Tango. [REDACTED] are the subject of this request to the Attorney General.

Below, the District has identified the exception to disclosure that applies, the information to which such exception applies, and the District respectfully request a ruling on the matter.

§ 552.104. Exception: Information Related to Competition or Bidding

The District believes the entirety of the requested information under Tab "3" is excepted from disclosure by Section 552.104 (Exception: Information Relating to Competition or Bidding) of the Act, which provides, in pertinent part, that "[i]nformation is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder." TEX. GOV'T CODE ANN. § 552.104.

Release of the responsive information will put the District at a disadvantage in obtaining competitive bids from consultants [REDACTED]

The marketing campaign subject of the Request has been a joint effort by the District with other

¹ The District is open for business from 8:30 a.m. to 4:30 p.m. on Fridays.

governmental entities since 2009. [REDACTED]
[REDACTED] “The purpose of section 552.104 is to protect the...interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers.” Tex. Atty Gen. OR 2009-17592 *citing* Tex. Atty. Gen Op. 592 (1991). Release of either or both [REDACTED] would put the District in a competitive disadvantage in receiving the most competitive bids as it would disclose [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Competing bidders wanting to compete for similar services as part of this and other District marketing campaigns could use the information [REDACTED] as a bargaining tool and affect the District’s ability to receive the most competitive bids for the remainder of the current and future campaigns.

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, 841 (Tex. 2015); *see also* Tex. Att’y Gen. Op. OR2016-16453 (2016). The District’s funds for the marketing campaign are allocated in each year’s budget along with its government partners and the allocation of funds and awarding of contracts are competitive for each media buy or television production contract. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Since the process is highly competitive, the District would also be at disadvantage in releasing the preferred media purchases the District seeks in its campaigns in effort to make the public aware of water conservation issues. [REDACTED]
[REDACTED]

[REDACTED] Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987) *see* Op. Tex. Att’y Gen. No. OR2013-18010 (2013). The responsive information also gives insight as to how the District [REDACTED] that compete for the District’s business in the marketing campaign. In total, release of the responsive information would provide a clear threat of harm to the District’s ability to obtain the best pricing and contractual provisions in the current and continuing marketing campaigns.

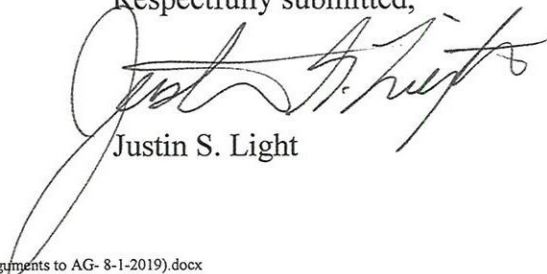
Because RO Two Media LLC and Charlie Uniform Tango are also affected by the potential release of the information subject of the Request and this request for Opinion, the District gave notice to both RO Two Media LLC and Charlie Uniform Tango pursuant to §552.305. The District requests an opinion pursuant to both §552.301 & 552.305. A copy of both of the notices sent to both RO Two Media LLC and Charlie Uniform Tango are included as Exhibit “C” under Tab “1.”

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Page 4

The District hereby certifies that the factual statements made herein are true and correct. For the foregoing reasons, the District respectfully requests that the Attorney General issue his opinion ruling that the information included under Tab "3" at issue herein is excepted from disclosure and that the District may withhold the information. As required by Texas Government Code § 552.301(e)(1)(D), the responsive information is attached hereto at Tab "3." The District believes the listed exception applies to all of the information included at Tab "3."

Pursuant to § 552.301(e-1) of the Act, we are providing to the Requestor on this date a redacted copy of this letter, which partially discloses the substance of the information requested, a copy of which (w/o exhibits) is enclosed as Tab "4". Also pursuant to § 552.301(e-1), the copy of this letter being provided to the Requestor does not include the information found at Tab "3," which the District asserts is exempt from disclosure.

Respectfully submitted,



Justin S. Light

Enclosures

P:\TRWD\Public Info Requests\Montoya, Robert\Attorney General (Arguments to AG- 8-1-2019).docx

cc: Tarrant Regional Water District

(Redacted; w/o Tab 3)

Mr. Robert Montoya

P.O. Box 700981

Dallas, Texas 75370

(Via CMRRR #7017 1450 0001 7341 0788 and email rmonoya@empowertexans.com)