



CITY OF DALLAS

November 20, 2018

Honorable Ken Paxton  
Attorney General of Texas  
300 W. 15th Street  
Clements Building, 12th Floor  
P.O. Box 12548  
Austin, Texas 78711

Re: Request for an Open Records Decision

Dear Mr. Attorney General Paxton:

On November 14, 2018, the city of Dallas ("city") submitted a request for an open records decision to you (Exhibit A) regarding a request from Lucas Smolcic Larson.

This office is responsible for representing the legal interests of the city. Our previous submission is incorporated into this submission, including Mr. Larson's request. We listed the exceptions under the Public Information Act, Chapter 552, Texas Government Code (the "Act") which might apply to the requested information in our previous correspondence. In this submission, we shall expand upon and explain the reasons we believe these exceptions apply to the requested information. In our opinion, some of the requested information is excepted from required public disclosure under Sections 552.104 of the Act. Under Section 552.301 of the Act, this office now seeks your determination about whether this information is exempt from disclosure.

Exhibit B consists of a representative sample of the requested information that we believe is excepted from disclosure under Section 552.104 of the Act. Exhibit B consists of draft contracts that have not been fully negotiated or executed. Section 552.104(a) of the Act allows a governmental body to withhold information related to competition and bidding that, if released, would give an advantage to a competitor or bidder. Your office has stated that a "governmental body may seek protection as a competitor in the marketplace under Section 552.104 and avail itself of the "competitive advantage" aspect of this exception if it can satisfy two criteria." Informal Letter Ruling No. OR2007-06125. The first prong of the test requires that the governmental body demonstrate that it has specific marketplace interests. The second prong of the test requires that the governmental body demonstrate a specific threat of actual or potential harm to its interest in a particular competitive situation. *Id.*

The city has a marketplace interest, as it competes with other entities to attract and encourage certain events (in this case the World Cup), which will generate revenue and business within the city. Such opportunities are highly competitive and in this instance, Dallas is in direct competition with other North American cities for the rights to host World Cup games. A major sporting event such as the World Cup would clearly generate a large amount of tourism to the host city, creating an economic boost. Consequently, Dallas has a strong marketplace interest in

protecting the information in Exhibit B. The contracts in Exhibit B contain proposed terms that are still being negotiated with FIFA, and the selection process is still ongoing.

Accordingly, there is a specific threat of potential harm to the city's interest if the information contained in Exhibit B is released to the public. 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 841 (Tex. 2015). Release of a contract that has not yet been finalized could thwart not only the ongoing project and proposal, but also future projects and/or proposals used to draw events to the city, as competing cities would have an unintended, deeper level of insight into the inner workings of the terms, evaluation, and negotiation process that underpin a deal that is still ongoing and in its early stages. Pursuant to *Boeing*, section 552.104 is not limited to only ongoing competitive situations, but even to situations where the release of competitively sensitive information would give an advantage to a competitor after the contract has been fully executed. *Boeing*, 466 S.W.3d at 831, 839. As previously stated, these contracts are not fully executed; though the city has unilaterally signed the agreements, the host cities have not yet been selected and the selection process may continue for quite some time. Release of this information at this stage in the process would provide competitors with an unfair competitive advantage against the city by allowing competitors to use the city's proposed agreements in the preparation of their own, potentially resulting in a loss of this opportunity to the city. For these reasons, and the reasons stated above, we believe that the contracts in Exhibit B should be withheld from public disclosure under 552.104.

If you have any questions regarding this request for an open records decision, please contact me at 214-670-3519.

Respectfully submitted,



SUNNY TRIPP  
Assistant City Attorney

Attachments

c: (with all Exhibits)  
Parris Long, City Secretary's Office

(with Exhibit A only)  
Tammy Palomino, Chief of the General Counsel Division  
Joyce Jones, Park and Recreation Department

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Honorable Ken Paxton  
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Lucas Smolcic Larson  
via GovQA



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P.O. Box 12548  
Austin, Texas 78711

Re: Request for an Open Records Decision

Dear Mr. Attorney General Paxton:

By electronic submission (Exhibit A) received by the City of Dallas ("city") on November 2, 2018 Lucas Smolcic Larson requested information pertaining to specified records.

The city is gathering the requested information and it is anticipated that some of the requested information will be exempt from mandatory disclosure under the Public Information Act, Chapter 552, Texas Government Code (the "Act"). Since we have not been able to review all the requested information, we would assert that certain information contained in Lucas Smolcic Larson's request may be protected from disclosure under Sections 552.101 through 552.154 of the Act. In particular, sections 552.101, 552.104, 552.107, 552.111, and 552.131. Under Section 552.301 of the Act, this office now seeks your determination about whether this information is exempt from disclosure.

Our comments stating the reasons why the Act excepts the requested information from disclosure, and copies of the requested information (or samples if voluminous), will be sent to your office by November 23, 2018 as required by Section 552.301(e) of the Act.

If you have any questions regarding this request for an open records decision, please contact me at (214) 670-3742.

Respectfully submitted,

Parris Long  
Public Information Coordinator

Exhibit A

Open Records Center, City Secretary's Office

Attachments

c: Bilierae Johnson, City Secretary  
Michelle Young, Administrative Specialist

Lucas Smolcic Larson  
Via GovQA

# EXHIBIT A

**C010054-110218 - Open Records Request****Open Records Request Details**

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**Open Records Request Details**

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Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek. Examples: "I hereby request the following documents [document name/type] on [event, project, incident, etc.]." "I need Police report [number], dated [date], and involving [description and date]". "I am requesting a certificate of occupancy for [X address]."

Describe the document(s) you are requesting:

Pursuant to the Texas Public Information Act, I hereby request the following records:

The following documents relating to the United Bid for the 2026 World Cup (in which Dallas is listed as a host city):

- a copy of the signed Host City Agreement, entered into by the the City of Dallas, the United States Soccer Federation (USSF), and the Federation Internationale de Football Association (FIFA) in January 2018 [designated Contract No. PKR-2018-00004969]
- copies of subsequent Host City Agreements entered into by Dallas, the USSF, and FIFA as a result of negotiation of the terms of the original agreement
- a copy of the signed Training Site Agreement entered into by the aforementioned parties in January of 2018 [designated as Contract No. PKR-2018-00004970].
- a copy of the signed Airport Agreement entered into by the aforementioned parties in January of 2018 [designated as Contract No. PKR-2018-00005139]

The above documents are referenced in January 10th, 2018 City Council Chamber resolution 180101, authorizing the Dallas City Manager to enter into the aforementioned agreements surrounding the 2026 United World Cup bid (<http://citysecretary.dallascityhall.com/resolutions/2018/01-10-18/18-0101.pdf>) and in a December 4th, 2017 memo authored by Wills C. Winters, Director of the Park and Recreation Department (attached).

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Lucas Smolic Larson

Date or Date Range:

Please provide the date or date range of your specific records request.

Preferred Method to Receive Documents:

Digital via Dallas Open Records Center - (Please note: All records may not be available electronically)

**Department with Record(s)**

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**Office Use Only**

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**Child Request Creation**

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**Notes**

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**Message History**

Date



## Date

On 11/2/2018 2:26:09 PM, System Generated Message:

Subject: Open Records Request :: C010054-110218

Body:

Dear Lucas Smoldic Larson:

Thank you for your interest in public records of the City of Dallas. Your request has been received and is being processed in accordance with Chapter 552 of Texas Government Code, the Public Information Act. Your request was received in this office on 11/2/2018 and given the reference number: C010054-110218 for tracking purposes.

Records Requested: Pursuant to the Texas Public Information Act, I hereby request the following records: The following documents relating to the United Bid for the 2026 World Cup (in which Dallas is listed as a host city): -a copy of the signed Host City Agreement, entered into by the the City of Dallas, the United States Soccer Federation (USSF), and the Federation Internationale de Football Association (FIFA) in January 2018 [designated Contract No. PKR-2018-00004969] -copies of subsequent Host City Agreements entered into by Dallas, the USSF, and FIFA as a result of negotiation of the terms of the original agreement -a copy of the signed Training Site Agreement entered into by the aforementioned parties in January of 2018 [designated as Contract No. PKR-2018-00004970]. -a copy of the signed Airport Agreement entered into by the aforementioned parties in January of 2018 [designated as Contract No. PKR-2018-00005139] The above documents are referenced in January 10th, 2018 City Council Chamber resolution 180101, authorizing the Dallas City Manager to enter into the aforementioned agreements surrounding the 2026 United World Cup bid (<http://citysecretary.dallascityhall.com/resolutions/2018/01-10-18/18-0101.pdf>) and in a December 4th, 2017 memo authored by Willis C. Winters, Director of the Park and Recreation Department (attached). The requested documents will be made available to the general public, and this request is not being made for commercial purposes. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not. Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires. Sincerely, Lucas Smoldic Larson

Your request will be sent to the relevant City department(s) to locate the information and determine any costs that may be due. You will receive an email when your request has been completed. If your request is received on the weekend or after business hours, it will be processed the next business day.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

City of Dallas

To monitor the progress or update this request please log into the [Public Records Center](#).

On 11/2/2018 2:26:08 PM, Lucas Smoldic Larson wrote:

Request was created by customer

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**Request Details**

Reference No:	C010054-110218
Create Date:	11/2/2018 2:26 PM
Update Date:	11/8/2018 4:32 PM
Completed/Closed:	No
Required Completion Date:	11/16/2018
Status:	Processing
Priority:	Medium
Assigned Dept:	City Secretary's Office
Assigned Staff:	Parris Long
Customer Name:	Lucas Smoldic Larson



11/14/2018

GovQA - DALLASTX - Parris Long

Email Address: 63269-34410548@requests.muckrock.com

Phone:

Source: Web