

DATE: June 19, 1986

TO: Jim Spotts, Director, Property Department
FROM: City Attorney
SUBJECT: Public Records - Responses to Requests for
Proposal

By memorandum dated May 13, 1986, copy attached, you asked a number of questions with regard to whether responses to requests for proposals to lease City property are public records which must be made available to the general public. Your memorandum further asked when the responses must be made available if they are determined to be public records. Attached is a memorandum prepared by a legal intern in this office which responds to your questions.

Applying the reasoning in the attached memorandum to a fact situation involving a response to a request for proposals to lease City property, it appears that the general information in a response may be kept confidential after its receipt by the City and through the period of time it is reviewed. The rationale for confidentiality is that, prior to making the recommendation, the City Manager and City staff often review and discuss proposals with the proposers and clarify, and at times expand on, the proposal itself in order to reach a clear agreement as to all the proposed terms of the lease. The period prior to the Manager making a recommendation to the Council, therefore, is similar to a negotiation stage where it would be both confusing and counter-productive to have the various proposers reviewing each other's proposals and trying to criticize other proposals or make offers to enhance their own proposals in view of their competitors' proposals.

However, once the City Manager makes a recommendation to the City Council with regard to the acceptance of a proposal, the proposal must be made available to the general public for review.

Sensitive financial information in the backup portion of a proposal relating to a proposer's other operations may generally

be kept confidential on a permanent basis. The informational "rating sheets" utilized by an evaluation committee may also be kept confidential.

If you have any questions regarding the attached memorandum, please call me.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug
Deputy City Attorney

HOV:ps:015(x043.2)
Attachment
ML-86-70