



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2010

Ms. Beth Maroney
Paralegal
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2010-02514

Dear Ms. Maroney:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 371103 (COSA File No. 09-1555).

The City of San Antonio (the "city") received a request for all environmental information obtained by the city in connection with the Westover Valley Drainage Relief Channel project. Although the city takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of third parties Frost Geosciences, Inc. ("Frost"), Bendicion Land Development Company, LLC ("Bendicion"), and Pape-Dawson Engineers ("Pape-Dawson"). Accordingly, you state the city notified Frost, Bendicion, and Pape-Dawson of the city's receipt of the request for information and of their right to submit arguments to this office as to why their information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Frost, Bendicion, or Pape-Dawson explaining why the submitted information should not be released. Therefore, we have no basis to conclude Frost, Bendicion, or Pape-Dawson has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information

is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Frost, Bendicion, or Pape-Dawson may have in it. As you raise no exceptions to disclosure, the submitted information must be released in its entirety to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 371103

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Steve Frost
Frost GeoSciences, Inc.
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Helotes, Texas 78023
(w/o enclosures)

Mr. David Martinez
Pape-Dawson Engineers
555 East Ramsey
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(w/o enclosures)

Mr. Salvador Flores
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19125 Deer Elk Crest
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