



ATTORNEY GENERAL OF TEXAS

GREG. ABBOTT

April 28, 2010

Mr. Charles Wallace  
Assistant City Attorney  
City of New Braunfels  
P.O. Box 311747  
New Braunfels, Texas 78131-1747

OR2010-06082

Dear Mr. Wallace:

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# 378591.

The City of New Braunfels (the "city") received a request for any agreement or contract between the city and R.A. Wiedemann & Associates, Inc. ("Wiedemann") for consulting on the New Braunfels Airport. You state the city takes no position as to the public availability of the requested information. However, you indicate that the submitted information may implicate the proprietary interests of Wiedemann. Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the city has notified Wiedemann of the request and of its right to submit arguments to this office explaining why this information should not be released. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Wiedemann. We have considered the comments submitted by Wiedemann and reviewed the submitted information.

Although Wiedemann states that a portion of its information is proprietary information that should be withheld from potential competitors, it has not raised any exceptions to disclosure under the Act or provided any arguments against disclosure. Therefore, we have no basis to conclude that Wiedemann has a protected proprietary interest in the submitted information. *See Gov't Code § 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. Moreover, we note the terms of a contract with a governmental body are generally not excepted from public disclosure. See Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision 541 at 8 (1990) (public has interest in knowing terms of contract with state agency). Accordingly, the city may not withhold any portion of the submitted information based upon the proprietary interests of Wiedemann. As you raise no exceptions to disclosure, we find the submitted information must be released 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](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,



Lauren J. Holmsley  
Assistant Attorney General  
Open Records Division

LJH/eb

Ref: ID# 378591

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Randal Wiedermann  
R.A. Wiedemann & Associates, Inc.  
P. O. Box 621  
Georgetown, Kentucky 40324  
(w/o enclosures)