



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 16, 2010

Mr. Jeffrey Moore  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2010-08804

Dear Mr. Moore:

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# 382959.

The City of Forney (the "city"), which you represent, received a request for all pass-through toll agreements and any other agreements between the city and Pate Engineers or their affiliates. You state the city has provided some of the requested information to the requestor. You claim the guaranteed maximum price document is excepted from disclosure under section 552.104 of the Government Code. Because release of some of the requested information may implicate the proprietary interests of a third party, pursuant to section 552.305 of the Government Code you were required to notify the interested third party of the request and of its opportunity to submit comments to this office explaining why its information should be withheld from disclosure. *See* Gov't Code § 552.305(d) (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 to disclosure in certain circumstances). We have considered your arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

You inform us the guaranteed maximum price document was the subject of a previous ruling issued by this office. In Open Records Letter No. 2010-03595, we concluded the city may withhold the guaranteed maximum price document under section 552.104 of the Government Code. As you represent the law, facts, and circumstances on which that ruling was based have not changed, the city may continue to rely on Open Records Letter No. 2010-03595 as a previous determination and withhold the guaranteed maximum price document in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we do not address your argument against disclosure.

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,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 382959

Enc. Submitted documents

c: Requestor  
(w/o enclosures)