



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 7, 2011

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority of Harris County  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2011-09609

Dear Ms. Hojem:

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# 423046 (MTA No. 2011-0202).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for the finance agreement, certain schedules in two specified formats, and a specified report pertaining to a specified contract. You state the authority has released the requested schedules in only .PDF format to the requestor. Although you indicate the authority takes no position with respect to the public availability of the submitted schedules in Primavera P6 format, you state the schedules' release in Primavera P6 format may implicate the proprietary interests of an interested third party. Accordingly, you state, and provide documentation showing, the authority notified Granite Construction Incorporated ("GCI") of the request and of the company's right to submit arguments to this office as to why the information at issue should not be released in Primavera P6 format. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

Initially, we note you have not submitted the requested financial agreement and report. To the extent information responsive to those parts of the request existed on the date the

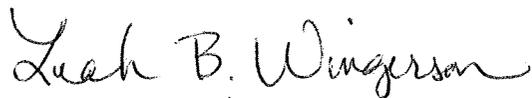
authority received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 GCI explaining why the submitted schedules in Primavera P6 format should not be released. Therefore, we have no basis to conclude GCI has protected proprietary interests in the 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. Consequently, the authority may not withhold the schedules in Primavera P6 format on the basis of any proprietary interests GCI may have in the information. Accordingly, the authority must release the submitted schedules in Primavera P6 format. *See generally* Gov't Code § 552.228 (explaining methods by which governmental body may provide information in electronic media).

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 423046

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Ken Smith  
Granite Construction Incorporated  
585 West Beach Street  
Watsonville, California 95076  
(w/o enclosures)