



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 7, 2014

Ms. Rachel Saucier
Legal Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2014-11574

Dear Ms. Saucier:

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# 528462 (Georgetown ORR# 2014-217).

The City of Georgetown (the "city") received a request for a specified exhibit to a specified task order. The city received another request from the same requestor for information related to fees paid for survey services and the names of survey subconsultants used by the city. Although you take no position with respect to the public availability of the requested information, you state release of this information may implicate the proprietary interests of McCord Engineering, Inc. ("McCord"). Accordingly, you state, and provide documentation showing, you have notified McCord of the requests for information and of its right to submit arguments to this office as to why the requested 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) (statutory predecessor to section 552.305 permitted governmental body to

rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have reviewed the submitted information.¹

Initially, we note you have not submitted information pertaining to the names of survey subconsultants used by the city. Thus, to the extent any information responsive to this portion of the request existed on the date the city received the present request, we assume the city has released it. If the city has not released any such information, it 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).

Next, we note the information we have marked is not responsive to the instant request for information because it is not the requested exhibit and it does not contain fees paid for survey services or the names of survey subconsultants used by the city. This ruling does not address the public availability of any information not responsive to the present request, and the city need not release it in response to the request.

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 McCord explaining why the submitted information should not be released. Therefore, we have no basis to conclude McCord has a protected proprietary interest in the submitted responsive 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 any of the submitted responsive information on the basis of any proprietary interest McCord may have in the information. As no exception to disclosure has been raised, the responsive information must be released.

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.

¹We note the city did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nonetheless, third-party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider whether the submitted information must be withheld under the Act on that ground.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 528462

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Rex Woods
McCord Engineering
916 Southwest Parkway East
College Station, Texas 77840
(w/o enclosures)