



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2017

Ms. Halfreda Anderson-Nelson
Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2017-28018

Dear Ms. Anderson-Nelson:

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# 687294 (ORR# W002038-092017).

Dallas Area Rapid Transit ("DART") received a request for specified meeting minutes from a specified time period and specified investment reports from specified dates. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of AndCo Consulting ("AndCo") and Gavion Consulting ("Gavion"). Accordingly, you state, and provide documentation showing, you notified AndCo and Gavion of the request for information and of their right to submit arguments to this office as to why the information at issue should not be released. *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.

Initially, we note that you have only submitted investment reports in response to the request. To the extent information responsive to the remainder of the request existed on the date DART received this request, we assume you have released it. If you have not released any such records, you must do so. *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).

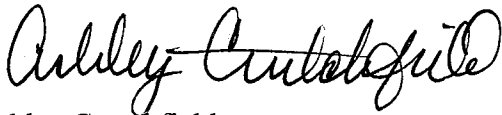
Next, we note some of the submitted investment reports are not responsive to the present request because they do not pertain to the specified dates. This ruling does not address the public availability of the non-responsive information, which we indicated, and DART need not release it in response to this request.

We also note 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) of the Government Code 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 AndCo or Gavion explaining why the responsive information should not be released. Therefore, we have no basis to conclude those parties have protected proprietary interests in the 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, DART may not withhold any portion of the responsive information related to AndCo or Gavion on the basis of any proprietary interest they may have in the information. As you raise no exceptions to disclosure, DART must release the responsive information.

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.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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/sb

Ref: ID# 687294

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)